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1 AMENDMENT TO SENATE BILL 750

2 AMENDMENT NO. _____. Amend Senate Bill 750, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The State Finance Act is amended by adding
6 Sections 5.640, 6z-68, and 6z-69 as follows:

7 (30 ILCS 105/5.640 new)

8 Sec. 5.640. The School District Property Tax Relief Fund.

9 (30 ILCS 105/6z-68 new)

10 Sec. 6z-68. School District Property Tax Relief Fund.

11 (a) The School District property Tax Relief Fund is created
12 as a special Fund in the State treasury. All interest earned on
13 moneys in the Fund shall be deposited into the Fund.

14 (b) As used in this Section:

15 "Department" means the Department of Revenue.

16 "Minimum property tax relief grant" means the minimum
17 amount of property tax relief that will be distributed to each
18 school district from the School District Property Tax Relief
19 Fund in each fiscal year.

20 "High property tax effort school district" means each
21 school district that has a total tax rate that is in the top
22 25% of all total tax rates of all school districts.

23 "Supplemental percentage" means the average daily head

1 count of a particular high property tax effort school district
2 in a fiscal year, divided by the head count total for that
3 fiscal year.

4 "Head count total" means the aggregate average daily
5 attendance of all high property tax effort school districts in
6 the applicable fiscal year.

7 "Supplemental property tax relief grant" means the amount
8 of property tax relief granted to each high property tax effort
9 school district in each fiscal year that is in addition to the
10 minimum property tax relief grant that the district receives.

11 (c) Beginning in fiscal year 2006, the General Assembly
12 shall appropriate \$2.4 billion from the education
13 appropriation minimum, as defined in Section 18-25 of the
14 School Code, to the School District Property Tax Relief Fund.
15 In each fiscal year thereafter, the General Assembly shall
16 appropriate an amount from the education appropriation
17 minimum, to the School District Property Tax Relief Fund equal
18 to the amount appropriated to the School District Property Tax
19 Relief Fund in the immediately preceding fiscal year, increased
20 by the Employment Cost Index ("ECI") published by the U.S.
21 Bureau of Labor Statistics for the immediately preceding fiscal
22 year.

23 (d) Between November 15 and 17 beginning in fiscal year
24 2006 and for every year thereafter, the Department must
25 certify, no earlier than November 15 and no later than November
26 17, the total amount of property tax relief each school
27 district will receive from the School District Property Tax
28 Relief Fund. The relief shall be determined as follows:

29 (1) In each fiscal year commencing with fiscal year
30 2006, the General Assembly shall appropriate 80% of the
31 total amount appropriated to the School District Property
32 Tax Relief Fund for that fiscal year to fund the aggregate
33 amount of minimum property tax relief grants that will be
34 distributed to all school districts. The Department then

1 shall calculate the amount of minimum property tax relief
2 grant to be distributed to each school district in each
3 fiscal year as follows:

4 (A) for fiscal year 2006, each school district
5 shall receive a minimum property tax relief grant in an
6 amount equal to 20% of the total property taxes
7 reported as payable for that school district in fiscal
8 year 2002; and

9 (B) for each fiscal year thereafter, the minimum
10 property tax relief grant for each school district must
11 be increased by the percentage increase, if any, in the
12 ECI published for the prior fiscal year.

13 (2) In each fiscal year commencing with fiscal year
14 2006, the General Assembly shall appropriate 20% of the
15 total amount appropriated to the School District Property
16 Tax Relief Fund for that fiscal year to fund the aggregate
17 amount of supplemental property tax relief grants that will
18 be distributed to all high property tax effort school
19 districts. The Department shall calculate the amount of
20 supplemental property tax relief grants payable to a
21 particular high property tax effort school district in each
22 fiscal year commencing in fiscal year 2006 and continuing
23 in each fiscal year thereafter by multiplying the
24 Supplemental Percentage of that high property tax effort
25 school district for that fiscal year by the total amount
26 appropriated to fund all the supplemental property tax
27 relief grants in that fiscal year.

28 (30 ILCS 105/6z-69 new)

29 Sec. 6z-69. Higher Education Supplemental Assistance Fund.

30 (a) The Higher Education Supplemental Assistance Fund is
31 created as a special fund in the State treasury. Moneys in the
32 Fund may be used only for the purpose set forth in this
33 Section. All interest earned on moneys in the Fund must be

1 deposited into the Fund.

2 (b) Each fiscal year, beginning in fiscal year 2006, the
3 General Assembly must appropriate \$400,000,000 from the
4 General Revenue Fund to the Higher Education Supplemental
5 Assistance Fund as follows:

6 (1) In each fiscal year, beginning in fiscal year 2006,
7 the General Assembly must appropriate 96% of the moneys in
8 the Higher Education Supplemental Assistance Fund to the
9 Board of Higher Education for grants to State universities
10 for their ordinary and contingent expenses. The grants
11 under this item (1) must be distributed to each State
12 university based upon each university's full time
13 equivalent head count.

14 (2) In each fiscal year, beginning in fiscal year 2006,
15 the General Assembly must appropriate 4% of the moneys in
16 the Higher Education Supplemental Assistance Fund to the
17 Illinois Community College Board for grants to community
18 colleges for their ordinary and contingent expenses. The
19 grants under this item (2) must be distributed as
20 supplemental base operating grants under Section 2-16.02
21 of the Public Community College Act.

22 Section 10. The Illinois Income Tax Act is amended by
23 changing Sections 201 and 203 and by adding Section 247 as
24 follows:

25 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

26 Sec. 201. Tax Imposed.

27 (a) In general. A tax measured by net income is hereby
28 imposed on every individual, corporation, trust and estate for
29 each taxable year ending after July 31, 1969 on the privilege
30 of earning or receiving income in or as a resident of this
31 State. Such tax shall be in addition to all other occupation or
32 privilege taxes imposed by this State or by any municipal

1 corporation or political subdivision thereof.

2 (b) Rates. The tax imposed by subsection (a) of this
3 Section shall be determined as follows, except as adjusted by
4 subsection (d-1):

5 (1) In the case of an individual, trust or estate, for
6 taxable years ending prior to July 1, 1989, an amount equal
7 to 2 1/2% of the taxpayer's net income for the taxable
8 year.

9 (2) In the case of an individual, trust or estate, for
10 taxable years beginning prior to July 1, 1989 and ending
11 after June 30, 1989, an amount equal to the sum of (i) 2
12 1/2% of the taxpayer's net income for the period prior to
13 July 1, 1989, as calculated under Section 202.3, and (ii)
14 3% of the taxpayer's net income for the period after June
15 30, 1989, as calculated under Section 202.3.

16 (3) In the case of an individual, trust or estate, for
17 taxable years beginning after June 30, 1989 and beginning
18 on or before January 1, 2005, an amount equal to 3% of the
19 taxpayer's net income for the taxable year.

20 (4) In the case of an individual, trust or estate, for
21 taxable years beginning after January 1, 2005, an amount
22 equal to 5% of the taxpayer's net income for the taxable
23 year ~~(Blank)~~.

24 (5) (Blank).

25 (6) In the case of a corporation, for taxable years
26 ending prior to July 1, 1989, an amount equal to 4% of the
27 taxpayer's net income for the taxable year.

28 (7) In the case of a corporation, for taxable years
29 beginning prior to July 1, 1989 and ending after June 30,
30 1989, an amount equal to the sum of (i) 4% of the
31 taxpayer's net income for the period prior to July 1, 1989,
32 as calculated under Section 202.3, and (ii) 4.8% of the
33 taxpayer's net income for the period after June 30, 1989,
34 as calculated under Section 202.3.

1 (8) In the case of a corporation, for taxable years
2 beginning after June 30, 1989 and beginning on or before
3 January 1, 2005, an amount equal to 4.8% of the taxpayer's
4 net income for the taxable year.

5 (9) In the case of a corporation, for taxable years
6 beginning after January 1, 2005, an amount equal to 8% of the
7 taxpayer's net income for the taxable year.

8 (c) Personal Property Tax Replacement Income Tax.
9 Beginning on July 1, 1979 and thereafter, in addition to such
10 income tax, there is also hereby imposed the Personal Property
11 Tax Replacement Income Tax measured by net income on every
12 corporation (including Subchapter S corporations), partnership
13 and trust, for each taxable year ending after June 30, 1979.
14 Such taxes are imposed on the privilege of earning or receiving
15 income in or as a resident of this State. The Personal Property
16 Tax Replacement Income Tax shall be in addition to the income
17 tax imposed by subsections (a) and (b) of this Section and in
18 addition to all other occupation or privilege taxes imposed by
19 this State or by any municipal corporation or political
20 subdivision thereof.

21 (d) Additional Personal Property Tax Replacement Income
22 Tax Rates. The personal property tax replacement income tax
23 imposed by this subsection and subsection (c) of this Section
24 in the case of a corporation, other than a Subchapter S
25 corporation and except as adjusted by subsection (d-1), shall
26 be an additional amount equal to 2.85% of such taxpayer's net
27 income for the taxable year, except that beginning on January
28 1, 1981, and thereafter, the rate of 2.85% specified in this
29 subsection shall be reduced to 2.5%, and in the case of a
30 partnership, trust or a Subchapter S corporation shall be an
31 additional amount equal to 1.5% of such taxpayer's net income
32 for the taxable year.

33 (d-1) Rate reduction for certain foreign insurers. In the
34 case of a foreign insurer, as defined by Section 35A-5 of the

1 Illinois Insurance Code, whose state or country of domicile
2 imposes on insurers domiciled in Illinois a retaliatory tax
3 (excluding any insurer whose premiums from reinsurance assumed
4 are 50% or more of its total insurance premiums as determined
5 under paragraph (2) of subsection (b) of Section 304, except
6 that for purposes of this determination premiums from
7 reinsurance do not include premiums from inter-affiliate
8 reinsurance arrangements), beginning with taxable years ending
9 on or after December 31, 1999, the sum of the rates of tax
10 imposed by subsections (b) and (d) shall be reduced (but not
11 increased) to the rate at which the total amount of tax imposed
12 under this Act, net of all credits allowed under this Act,
13 shall equal (i) the total amount of tax that would be imposed
14 on the foreign insurer's net income allocable to Illinois for
15 the taxable year by such foreign insurer's state or country of
16 domicile if that net income were subject to all income taxes
17 and taxes measured by net income imposed by such foreign
18 insurer's state or country of domicile, net of all credits
19 allowed or (ii) a rate of zero if no such tax is imposed on such
20 income by the foreign insurer's state of domicile. For the
21 purposes of this subsection (d-1), an inter-affiliate includes
22 a mutual insurer under common management.

23 (1) For the purposes of subsection (d-1), in no event
24 shall the sum of the rates of tax imposed by subsections
25 (b) and (d) be reduced below the rate at which the sum of:

26 (A) the total amount of tax imposed on such foreign
27 insurer under this Act for a taxable year, net of all
28 credits allowed under this Act, plus

29 (B) the privilege tax imposed by Section 409 of the
30 Illinois Insurance Code, the fire insurance company
31 tax imposed by Section 12 of the Fire Investigation
32 Act, and the fire department taxes imposed under
33 Section 11-10-1 of the Illinois Municipal Code,
34 equals 1.25% for taxable years ending prior to December 31,

1 2003, or 1.75% for taxable years ending on or after
2 December 31, 2003, of the net taxable premiums written for
3 the taxable year, as described by subsection (1) of Section
4 409 of the Illinois Insurance Code. This paragraph will in
5 no event increase the rates imposed under subsections (b)
6 and (d).

7 (2) Any reduction in the rates of tax imposed by this
8 subsection shall be applied first against the rates imposed
9 by subsection (b) and only after the tax imposed by
10 subsection (a) net of all credits allowed under this
11 Section other than the credit allowed under subsection (i)
12 has been reduced to zero, against the rates imposed by
13 subsection (d).

14 This subsection (d-1) is exempt from the provisions of
15 Section 250.

16 (e) Investment credit. A taxpayer shall be allowed a credit
17 against the Personal Property Tax Replacement Income Tax for
18 investment in qualified property.

19 (1) A taxpayer shall be allowed a credit equal to .5%
20 of the basis of qualified property placed in service during
21 the taxable year, provided such property is placed in
22 service on or after July 1, 1984. There shall be allowed an
23 additional credit equal to .5% of the basis of qualified
24 property placed in service during the taxable year,
25 provided such property is placed in service on or after
26 July 1, 1986, and the taxpayer's base employment within
27 Illinois has increased by 1% or more over the preceding
28 year as determined by the taxpayer's employment records
29 filed with the Illinois Department of Employment Security.
30 Taxpayers who are new to Illinois shall be deemed to have
31 met the 1% growth in base employment for the first year in
32 which they file employment records with the Illinois
33 Department of Employment Security. The provisions added to
34 this Section by Public Act 85-1200 (and restored by Public

1 Act 87-895) shall be construed as declaratory of existing
2 law and not as a new enactment. If, in any year, the
3 increase in base employment within Illinois over the
4 preceding year is less than 1%, the additional credit shall
5 be limited to that percentage times a fraction, the
6 numerator of which is .5% and the denominator of which is
7 1%, but shall not exceed .5%. The investment credit shall
8 not be allowed to the extent that it would reduce a
9 taxpayer's liability in any tax year below zero, nor may
10 any credit for qualified property be allowed for any year
11 other than the year in which the property was placed in
12 service in Illinois. For tax years ending on or after
13 December 31, 1987, and on or before December 31, 1988, the
14 credit shall be allowed for the tax year in which the
15 property is placed in service, or, if the amount of the
16 credit exceeds the tax liability for that year, whether it
17 exceeds the original liability or the liability as later
18 amended, such excess may be carried forward and applied to
19 the tax liability of the 5 taxable years following the
20 excess credit years if the taxpayer (i) makes investments
21 which cause the creation of a minimum of 2,000 full-time
22 equivalent jobs in Illinois, (ii) is located in an
23 enterprise zone established pursuant to the Illinois
24 Enterprise Zone Act and (iii) is certified by the
25 Department of Commerce and Community Affairs (now
26 Department of Commerce and Economic Opportunity) as
27 complying with the requirements specified in clause (i) and
28 (ii) by July 1, 1986. The Department of Commerce and
29 Community Affairs (now Department of Commerce and Economic
30 Opportunity) shall notify the Department of Revenue of all
31 such certifications immediately. For tax years ending
32 after December 31, 1988, the credit shall be allowed for
33 the tax year in which the property is placed in service,
34 or, if the amount of the credit exceeds the tax liability

1 for that year, whether it exceeds the original liability or
2 the liability as later amended, such excess may be carried
3 forward and applied to the tax liability of the 5 taxable
4 years following the excess credit years. The credit shall
5 be applied to the earliest year for which there is a
6 liability. If there is credit from more than one tax year
7 that is available to offset a liability, earlier credit
8 shall be applied first.

9 (2) The term "qualified property" means property
10 which:

11 (A) is tangible, whether new or used, including
12 buildings and structural components of buildings and
13 signs that are real property, but not including land or
14 improvements to real property that are not a structural
15 component of a building such as landscaping, sewer
16 lines, local access roads, fencing, parking lots, and
17 other appurtenances;

18 (B) is depreciable pursuant to Section 167 of the
19 Internal Revenue Code, except that "3-year property"
20 as defined in Section 168(c)(2)(A) of that Code is not
21 eligible for the credit provided by this subsection
22 (e);

23 (C) is acquired by purchase as defined in Section
24 179(d) of the Internal Revenue Code;

25 (D) is used in Illinois by a taxpayer who is
26 primarily engaged in manufacturing, or in mining coal
27 or fluorite, or in retailing; and

28 (E) has not previously been used in Illinois in
29 such a manner and by such a person as would qualify for
30 the credit provided by this subsection (e) or
31 subsection (f).

32 (3) For purposes of this subsection (e),
33 "manufacturing" means the material staging and production
34 of tangible personal property by procedures commonly

1 regarded as manufacturing, processing, fabrication, or
2 assembling which changes some existing material into new
3 shapes, new qualities, or new combinations. For purposes of
4 this subsection (e) the term "mining" shall have the same
5 meaning as the term "mining" in Section 613(c) of the
6 Internal Revenue Code. For purposes of this subsection (e),
7 the term "retailing" means the sale of tangible personal
8 property or services rendered in conjunction with the sale
9 of tangible consumer goods or commodities.

10 (4) The basis of qualified property shall be the basis
11 used to compute the depreciation deduction for federal
12 income tax purposes.

13 (5) If the basis of the property for federal income tax
14 depreciation purposes is increased after it has been placed
15 in service in Illinois by the taxpayer, the amount of such
16 increase shall be deemed property placed in service on the
17 date of such increase in basis.

18 (6) The term "placed in service" shall have the same
19 meaning as under Section 46 of the Internal Revenue Code.

20 (7) If during any taxable year, any property ceases to
21 be qualified property in the hands of the taxpayer within
22 48 months after being placed in service, or the situs of
23 any qualified property is moved outside Illinois within 48
24 months after being placed in service, the Personal Property
25 Tax Replacement Income Tax for such taxable year shall be
26 increased. Such increase shall be determined by (i)
27 recomputing the investment credit which would have been
28 allowed for the year in which credit for such property was
29 originally allowed by eliminating such property from such
30 computation and, (ii) subtracting such recomputed credit
31 from the amount of credit previously allowed. For the
32 purposes of this paragraph (7), a reduction of the basis of
33 qualified property resulting from a redetermination of the
34 purchase price shall be deemed a disposition of qualified

1 property to the extent of such reduction.

2 (8) Unless the investment credit is extended by law,
3 the basis of qualified property shall not include costs
4 incurred after December 31, 2008, except for costs incurred
5 pursuant to a binding contract entered into on or before
6 December 31, 2008.

7 (9) Each taxable year ending before December 31, 2000,
8 a partnership may elect to pass through to its partners the
9 credits to which the partnership is entitled under this
10 subsection (e) for the taxable year. A partner may use the
11 credit allocated to him or her under this paragraph only
12 against the tax imposed in subsections (c) and (d) of this
13 Section. If the partnership makes that election, those
14 credits shall be allocated among the partners in the
15 partnership in accordance with the rules set forth in
16 Section 704(b) of the Internal Revenue Code, and the rules
17 promulgated under that Section, and the allocated amount of
18 the credits shall be allowed to the partners for that
19 taxable year. The partnership shall make this election on
20 its Personal Property Tax Replacement Income Tax return for
21 that taxable year. The election to pass through the credits
22 shall be irrevocable.

23 For taxable years ending on or after December 31, 2000,
24 a partner that qualifies its partnership for a subtraction
25 under subparagraph (I) of paragraph (2) of subsection (d)
26 of Section 203 or a shareholder that qualifies a Subchapter
27 S corporation for a subtraction under subparagraph (S) of
28 paragraph (2) of subsection (b) of Section 203 shall be
29 allowed a credit under this subsection (e) equal to its
30 share of the credit earned under this subsection (e) during
31 the taxable year by the partnership or Subchapter S
32 corporation, determined in accordance with the
33 determination of income and distributive share of income
34 under Sections 702 and 704 and Subchapter S of the Internal

1 Revenue Code. This paragraph is exempt from the provisions
2 of Section 250.

3 (f) Investment credit; Enterprise Zone.

4 (1) A taxpayer shall be allowed a credit against the
5 tax imposed by subsections (a) and (b) of this Section for
6 investment in qualified property which is placed in service
7 in an Enterprise Zone created pursuant to the Illinois
8 Enterprise Zone Act. For partners, shareholders of
9 Subchapter S corporations, and owners of limited liability
10 companies, if the liability company is treated as a
11 partnership for purposes of federal and State income
12 taxation, there shall be allowed a credit under this
13 subsection (f) to be determined in accordance with the
14 determination of income and distributive share of income
15 under Sections 702 and 704 and Subchapter S of the Internal
16 Revenue Code. The credit shall be .5% of the basis for such
17 property. The credit shall be available only in the taxable
18 year in which the property is placed in service in the
19 Enterprise Zone and shall not be allowed to the extent that
20 it would reduce a taxpayer's liability for the tax imposed
21 by subsections (a) and (b) of this Section to below zero.
22 For tax years ending on or after December 31, 1985, the
23 credit shall be allowed for the tax year in which the
24 property is placed in service, or, if the amount of the
25 credit exceeds the tax liability for that year, whether it
26 exceeds the original liability or the liability as later
27 amended, such excess may be carried forward and applied to
28 the tax liability of the 5 taxable years following the
29 excess credit year. The credit shall be applied to the
30 earliest year for which there is a liability. If there is
31 credit from more than one tax year that is available to
32 offset a liability, the credit accruing first in time shall
33 be applied first.

34 (2) The term qualified property means property which:

1 (A) is tangible, whether new or used, including
2 buildings and structural components of buildings;

3 (B) is depreciable pursuant to Section 167 of the
4 Internal Revenue Code, except that "3-year property"
5 as defined in Section 168(c)(2)(A) of that Code is not
6 eligible for the credit provided by this subsection
7 (f);

8 (C) is acquired by purchase as defined in Section
9 179(d) of the Internal Revenue Code;

10 (D) is used in the Enterprise Zone by the taxpayer;
11 and

12 (E) has not been previously used in Illinois in
13 such a manner and by such a person as would qualify for
14 the credit provided by this subsection (f) or
15 subsection (e).

16 (3) The basis of qualified property shall be the basis
17 used to compute the depreciation deduction for federal
18 income tax purposes.

19 (4) If the basis of the property for federal income tax
20 depreciation purposes is increased after it has been placed
21 in service in the Enterprise Zone by the taxpayer, the
22 amount of such increase shall be deemed property placed in
23 service on the date of such increase in basis.

24 (5) The term "placed in service" shall have the same
25 meaning as under Section 46 of the Internal Revenue Code.

26 (6) If during any taxable year, any property ceases to
27 be qualified property in the hands of the taxpayer within
28 48 months after being placed in service, or the situs of
29 any qualified property is moved outside the Enterprise Zone
30 within 48 months after being placed in service, the tax
31 imposed under subsections (a) and (b) of this Section for
32 such taxable year shall be increased. Such increase shall
33 be determined by (i) recomputing the investment credit
34 which would have been allowed for the year in which credit

1 for such property was originally allowed by eliminating
2 such property from such computation, and (ii) subtracting
3 such recomputed credit from the amount of credit previously
4 allowed. For the purposes of this paragraph (6), a
5 reduction of the basis of qualified property resulting from
6 a redetermination of the purchase price shall be deemed a
7 disposition of qualified property to the extent of such
8 reduction.

9 (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade
10 Zone or Sub-Zone.

11 (1) A taxpayer conducting a trade or business in an
12 enterprise zone or a High Impact Business designated by the
13 Department of Commerce and Economic Opportunity conducting
14 a trade or business in a federally designated Foreign Trade
15 Zone or Sub-Zone shall be allowed a credit against the tax
16 imposed by subsections (a) and (b) of this Section in the
17 amount of \$500 per eligible employee hired to work in the
18 zone during the taxable year.

19 (2) To qualify for the credit:

20 (A) the taxpayer must hire 5 or more eligible
21 employees to work in an enterprise zone or federally
22 designated Foreign Trade Zone or Sub-Zone during the
23 taxable year;

24 (B) the taxpayer's total employment within the
25 enterprise zone or federally designated Foreign Trade
26 Zone or Sub-Zone must increase by 5 or more full-time
27 employees beyond the total employed in that zone at the
28 end of the previous tax year for which a jobs tax
29 credit under this Section was taken, or beyond the
30 total employed by the taxpayer as of December 31, 1985,
31 whichever is later; and

32 (C) the eligible employees must be employed 180
33 consecutive days in order to be deemed hired for
34 purposes of this subsection.

1 (3) An "eligible employee" means an employee who is:

2 (A) Certified by the Department of Commerce and
3 Economic Opportunity as "eligible for services"
4 pursuant to regulations promulgated in accordance with
5 Title II of the Job Training Partnership Act, Training
6 Services for the Disadvantaged or Title III of the Job
7 Training Partnership Act, Employment and Training
8 Assistance for Dislocated Workers Program.

9 (B) Hired after the enterprise zone or federally
10 designated Foreign Trade Zone or Sub-Zone was
11 designated or the trade or business was located in that
12 zone, whichever is later.

13 (C) Employed in the enterprise zone or Foreign
14 Trade Zone or Sub-Zone. An employee is employed in an
15 enterprise zone or federally designated Foreign Trade
16 Zone or Sub-Zone if his services are rendered there or
17 it is the base of operations for the services
18 performed.

19 (D) A full-time employee working 30 or more hours
20 per week.

21 (4) For tax years ending on or after December 31, 1985
22 and prior to December 31, 1988, the credit shall be allowed
23 for the tax year in which the eligible employees are hired.
24 For tax years ending on or after December 31, 1988, the
25 credit shall be allowed for the tax year immediately
26 following the tax year in which the eligible employees are
27 hired. If the amount of the credit exceeds the tax
28 liability for that year, whether it exceeds the original
29 liability or the liability as later amended, such excess
30 may be carried forward and applied to the tax liability of
31 the 5 taxable years following the excess credit year. The
32 credit shall be applied to the earliest year for which
33 there is a liability. If there is credit from more than one
34 tax year that is available to offset a liability, earlier

1 credit shall be applied first.

2 (5) The Department of Revenue shall promulgate such
3 rules and regulations as may be deemed necessary to carry
4 out the purposes of this subsection (g).

5 (6) The credit shall be available for eligible
6 employees hired on or after January 1, 1986.

7 (h) Investment credit; High Impact Business.

8 (1) Subject to subsections (b) and (b-5) of Section 5.5
9 of the Illinois Enterprise Zone Act, a taxpayer shall be
10 allowed a credit against the tax imposed by subsections (a)
11 and (b) of this Section for investment in qualified
12 property which is placed in service by a Department of
13 Commerce and Economic Opportunity designated High Impact
14 Business. The credit shall be .5% of the basis for such
15 property. The credit shall not be available (i) until the
16 minimum investments in qualified property set forth in
17 subdivision (a)(3)(A) of Section 5.5 of the Illinois
18 Enterprise Zone Act have been satisfied or (ii) until the
19 time authorized in subsection (b-5) of the Illinois
20 Enterprise Zone Act for entities designated as High Impact
21 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
22 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
23 Act, and shall not be allowed to the extent that it would
24 reduce a taxpayer's liability for the tax imposed by
25 subsections (a) and (b) of this Section to below zero. The
26 credit applicable to such investments shall be taken in the
27 taxable year in which such investments have been completed.
28 The credit for additional investments beyond the minimum
29 investment by a designated high impact business authorized
30 under subdivision (a)(3)(A) of Section 5.5 of the Illinois
31 Enterprise Zone Act shall be available only in the taxable
32 year in which the property is placed in service and shall
33 not be allowed to the extent that it would reduce a
34 taxpayer's liability for the tax imposed by subsections (a)

1 and (b) of this Section to below zero. For tax years ending
2 on or after December 31, 1987, the credit shall be allowed
3 for the tax year in which the property is placed in
4 service, or, if the amount of the credit exceeds the tax
5 liability for that year, whether it exceeds the original
6 liability or the liability as later amended, such excess
7 may be carried forward and applied to the tax liability of
8 the 5 taxable years following the excess credit year. The
9 credit shall be applied to the earliest year for which
10 there is a liability. If there is credit from more than one
11 tax year that is available to offset a liability, the
12 credit accruing first in time shall be applied first.

13 Changes made in this subdivision (h) (1) by Public Act
14 88-670 restore changes made by Public Act 85-1182 and
15 reflect existing law.

16 (2) The term qualified property means property which:

17 (A) is tangible, whether new or used, including
18 buildings and structural components of buildings;

19 (B) is depreciable pursuant to Section 167 of the
20 Internal Revenue Code, except that "3-year property"
21 as defined in Section 168(c) (2) (A) of that Code is not
22 eligible for the credit provided by this subsection
23 (h);

24 (C) is acquired by purchase as defined in Section
25 179(d) of the Internal Revenue Code; and

26 (D) is not eligible for the Enterprise Zone
27 Investment Credit provided by subsection (f) of this
28 Section.

29 (3) The basis of qualified property shall be the basis
30 used to compute the depreciation deduction for federal
31 income tax purposes.

32 (4) If the basis of the property for federal income tax
33 depreciation purposes is increased after it has been placed
34 in service in a federally designated Foreign Trade Zone or

1 Sub-Zone located in Illinois by the taxpayer, the amount of
2 such increase shall be deemed property placed in service on
3 the date of such increase in basis.

4 (5) The term "placed in service" shall have the same
5 meaning as under Section 46 of the Internal Revenue Code.

6 (6) If during any taxable year ending on or before
7 December 31, 1996, any property ceases to be qualified
8 property in the hands of the taxpayer within 48 months
9 after being placed in service, or the situs of any
10 qualified property is moved outside Illinois within 48
11 months after being placed in service, the tax imposed under
12 subsections (a) and (b) of this Section for such taxable
13 year shall be increased. Such increase shall be determined
14 by (i) recomputing the investment credit which would have
15 been allowed for the year in which credit for such property
16 was originally allowed by eliminating such property from
17 such computation, and (ii) subtracting such recomputed
18 credit from the amount of credit previously allowed. For
19 the purposes of this paragraph (6), a reduction of the
20 basis of qualified property resulting from a
21 redetermination of the purchase price shall be deemed a
22 disposition of qualified property to the extent of such
23 reduction.

24 (7) Beginning with tax years ending after December 31,
25 1996, if a taxpayer qualifies for the credit under this
26 subsection (h) and thereby is granted a tax abatement and
27 the taxpayer relocates its entire facility in violation of
28 the explicit terms and length of the contract under Section
29 18-183 of the Property Tax Code, the tax imposed under
30 subsections (a) and (b) of this Section shall be increased
31 for the taxable year in which the taxpayer relocated its
32 facility by an amount equal to the amount of credit
33 received by the taxpayer under this subsection (h).

34 (i) Credit for Personal Property Tax Replacement Income

1 Tax. For tax years ending prior to December 31, 2003, a credit
2 shall be allowed against the tax imposed by subsections (a) and
3 (b) of this Section for the tax imposed by subsections (c) and
4 (d) of this Section. This credit shall be computed by
5 multiplying the tax imposed by subsections (c) and (d) of this
6 Section by a fraction, the numerator of which is base income
7 allocable to Illinois and the denominator of which is Illinois
8 base income, and further multiplying the product by the tax
9 rate imposed by subsections (a) and (b) of this Section.

10 Any credit earned on or after December 31, 1986 under this
11 subsection which is unused in the year the credit is computed
12 because it exceeds the tax liability imposed by subsections (a)
13 and (b) for that year (whether it exceeds the original
14 liability or the liability as later amended) may be carried
15 forward and applied to the tax liability imposed by subsections
16 (a) and (b) of the 5 taxable years following the excess credit
17 year, provided that no credit may be carried forward to any
18 year ending on or after December 31, 2003. This credit shall be
19 applied first to the earliest year for which there is a
20 liability. If there is a credit under this subsection from more
21 than one tax year that is available to offset a liability the
22 earliest credit arising under this subsection shall be applied
23 first.

24 If, during any taxable year ending on or after December 31,
25 1986, the tax imposed by subsections (c) and (d) of this
26 Section for which a taxpayer has claimed a credit under this
27 subsection (i) is reduced, the amount of credit for such tax
28 shall also be reduced. Such reduction shall be determined by
29 recomputing the credit to take into account the reduced tax
30 imposed by subsections (c) and (d). If any portion of the
31 reduced amount of credit has been carried to a different
32 taxable year, an amended return shall be filed for such taxable
33 year to reduce the amount of credit claimed.

34 (j) Training expense credit. Beginning with tax years

1 ending on or after December 31, 1986 and prior to December 31,
2 2003, a taxpayer shall be allowed a credit against the tax
3 imposed by subsections (a) and (b) under this Section for all
4 amounts paid or accrued, on behalf of all persons employed by
5 the taxpayer in Illinois or Illinois residents employed outside
6 of Illinois by a taxpayer, for educational or vocational
7 training in semi-technical or technical fields or semi-skilled
8 or skilled fields, which were deducted from gross income in the
9 computation of taxable income. The credit against the tax
10 imposed by subsections (a) and (b) shall be 1.6% of such
11 training expenses. For partners, shareholders of subchapter S
12 corporations, and owners of limited liability companies, if the
13 liability company is treated as a partnership for purposes of
14 federal and State income taxation, there shall be allowed a
15 credit under this subsection (j) to be determined in accordance
16 with the determination of income and distributive share of
17 income under Sections 702 and 704 and subchapter S of the
18 Internal Revenue Code.

19 Any credit allowed under this subsection which is unused in
20 the year the credit is earned may be carried forward to each of
21 the 5 taxable years following the year for which the credit is
22 first computed until it is used. This credit shall be applied
23 first to the earliest year for which there is a liability. If
24 there is a credit under this subsection from more than one tax
25 year that is available to offset a liability the earliest
26 credit arising under this subsection shall be applied first. No
27 carryforward credit may be claimed in any tax year ending on or
28 after December 31, 2003.

29 (k) Research and development credit.

30 For tax years ending after July 1, 1990 and prior to
31 December 31, 2003, and beginning again for tax years ending on
32 or after December 31, 2004, a taxpayer shall be allowed a
33 credit against the tax imposed by subsections (a) and (b) of
34 this Section for increasing research activities in this State.

1 The credit allowed against the tax imposed by subsections (a)
2 and (b) shall be equal to 6 1/2% of the qualifying expenditures
3 for increasing research activities in this State. For partners,
4 shareholders of subchapter S corporations, and owners of
5 limited liability companies, if the liability company is
6 treated as a partnership for purposes of federal and State
7 income taxation, there shall be allowed a credit under this
8 subsection to be determined in accordance with the
9 determination of income and distributive share of income under
10 Sections 702 and 704 and subchapter S of the Internal Revenue
11 Code.

12 For purposes of this subsection, "qualifying expenditures"
13 means the qualifying expenditures as defined for the federal
14 credit for increasing research activities which would be
15 allowable under Section 41 of the Internal Revenue Code and
16 which are conducted in this State, "qualifying expenditures for
17 increasing research activities in this State" means the excess
18 of qualifying expenditures for the taxable year in which
19 incurred over qualifying expenditures for the base period,
20 "qualifying expenditures for the base period" means the average
21 of the qualifying expenditures for each year in the base
22 period, and "base period" means the 3 taxable years immediately
23 preceding the taxable year for which the determination is being
24 made.

25 Any credit in excess of the tax liability for the taxable
26 year may be carried forward. A taxpayer may elect to have the
27 unused credit shown on its final completed return carried over
28 as a credit against the tax liability for the following 5
29 taxable years or until it has been fully used, whichever occurs
30 first; provided that no credit earned in a tax year ending
31 prior to December 31, 2003 may be carried forward to any year
32 ending on or after December 31, 2003.

33 If an unused credit is carried forward to a given year from
34 2 or more earlier years, that credit arising in the earliest

1 year will be applied first against the tax liability for the
2 given year. If a tax liability for the given year still
3 remains, the credit from the next earliest year will then be
4 applied, and so on, until all credits have been used or no tax
5 liability for the given year remains. Any remaining unused
6 credit or credits then will be carried forward to the next
7 following year in which a tax liability is incurred, except
8 that no credit can be carried forward to a year which is more
9 than 5 years after the year in which the expense for which the
10 credit is given was incurred.

11 No inference shall be drawn from this amendatory Act of the
12 91st General Assembly in construing this Section for taxable
13 years beginning before January 1, 1999.

14 (1) Environmental Remediation Tax Credit.

15 (i) For tax years ending after December 31, 1997 and on
16 or before December 31, 2001, a taxpayer shall be allowed a
17 credit against the tax imposed by subsections (a) and (b)
18 of this Section for certain amounts paid for unreimbursed
19 eligible remediation costs, as specified in this
20 subsection. For purposes of this Section, "unreimbursed
21 eligible remediation costs" means costs approved by the
22 Illinois Environmental Protection Agency ("Agency") under
23 Section 58.14 of the Environmental Protection Act that were
24 paid in performing environmental remediation at a site for
25 which a No Further Remediation Letter was issued by the
26 Agency and recorded under Section 58.10 of the
27 Environmental Protection Act. The credit must be claimed
28 for the taxable year in which Agency approval of the
29 eligible remediation costs is granted. The credit is not
30 available to any taxpayer if the taxpayer or any related
31 party caused or contributed to, in any material respect, a
32 release of regulated substances on, in, or under the site
33 that was identified and addressed by the remedial action
34 pursuant to the Site Remediation Program of the

1 Environmental Protection Act. After the Pollution Control
2 Board rules are adopted pursuant to the Illinois
3 Administrative Procedure Act for the administration and
4 enforcement of Section 58.9 of the Environmental
5 Protection Act, determinations as to credit availability
6 for purposes of this Section shall be made consistent with
7 those rules. For purposes of this Section, "taxpayer"
8 includes a person whose tax attributes the taxpayer has
9 succeeded to under Section 381 of the Internal Revenue Code
10 and "related party" includes the persons disallowed a
11 deduction for losses by paragraphs (b), (c), and (f)(1) of
12 Section 267 of the Internal Revenue Code by virtue of being
13 a related taxpayer, as well as any of its partners. The
14 credit allowed against the tax imposed by subsections (a)
15 and (b) shall be equal to 25% of the unreimbursed eligible
16 remediation costs in excess of \$100,000 per site, except
17 that the \$100,000 threshold shall not apply to any site
18 contained in an enterprise zone as determined by the
19 Department of Commerce and Community Affairs (now
20 Department of Commerce and Economic Opportunity). The
21 total credit allowed shall not exceed \$40,000 per year with
22 a maximum total of \$150,000 per site. For partners and
23 shareholders of subchapter S corporations, there shall be
24 allowed a credit under this subsection to be determined in
25 accordance with the determination of income and
26 distributive share of income under Sections 702 and 704 and
27 subchapter S of the Internal Revenue Code.

28 (ii) A credit allowed under this subsection that is
29 unused in the year the credit is earned may be carried
30 forward to each of the 5 taxable years following the year
31 for which the credit is first earned until it is used. The
32 term "unused credit" does not include any amounts of
33 unreimbursed eligible remediation costs in excess of the
34 maximum credit per site authorized under paragraph (i).

1 This credit shall be applied first to the earliest year for
2 which there is a liability. If there is a credit under this
3 subsection from more than one tax year that is available to
4 offset a liability, the earliest credit arising under this
5 subsection shall be applied first. A credit allowed under
6 this subsection may be sold to a buyer as part of a sale of
7 all or part of the remediation site for which the credit
8 was granted. The purchaser of a remediation site and the
9 tax credit shall succeed to the unused credit and remaining
10 carry-forward period of the seller. To perfect the
11 transfer, the assignor shall record the transfer in the
12 chain of title for the site and provide written notice to
13 the Director of the Illinois Department of Revenue of the
14 assignor's intent to sell the remediation site and the
15 amount of the tax credit to be transferred as a portion of
16 the sale. In no event may a credit be transferred to any
17 taxpayer if the taxpayer or a related party would not be
18 eligible under the provisions of subsection (i).

19 (iii) For purposes of this Section, the term "site"
20 shall have the same meaning as under Section 58.2 of the
21 Environmental Protection Act.

22 (m) Education expense credit. Beginning with tax years
23 ending after December 31, 1999, a taxpayer who is the custodian
24 of one or more qualifying pupils shall be allowed a credit
25 against the tax imposed by subsections (a) and (b) of this
26 Section for qualified education expenses incurred on behalf of
27 the qualifying pupils. The credit shall be equal to 25% of
28 qualified education expenses, but in no event may the total
29 credit under this subsection claimed by a family that is the
30 custodian of qualifying pupils exceed \$500. In no event shall a
31 credit under this subsection reduce the taxpayer's liability
32 under this Act to less than zero. This subsection is exempt
33 from the provisions of Section 250 of this Act.

34 For purposes of this subsection:

1 "Qualifying pupils" means individuals who (i) are
2 residents of the State of Illinois, (ii) are under the age of
3 21 at the close of the school year for which a credit is
4 sought, and (iii) during the school year for which a credit is
5 sought were full-time pupils enrolled in a kindergarten through
6 twelfth grade education program at any school, as defined in
7 this subsection.

8 "Qualified education expense" means the amount incurred on
9 behalf of a qualifying pupil in excess of \$250 for tuition,
10 book fees, and lab fees at the school in which the pupil is
11 enrolled during the regular school year.

12 "School" means any public or nonpublic elementary or
13 secondary school in Illinois that is in compliance with Title
14 VI of the Civil Rights Act of 1964 and attendance at which
15 satisfies the requirements of Section 26-1 of the School Code,
16 except that nothing shall be construed to require a child to
17 attend any particular public or nonpublic school to qualify for
18 the credit under this Section.

19 "Custodian" means, with respect to qualifying pupils, an
20 Illinois resident who is a parent, the parents, a legal
21 guardian, or the legal guardians of the qualifying pupils.

22 (Source: P.A. 92-12, eff. 7-1-01; 92-16, eff. 6-28-01; 92-651,
23 eff. 7-11-02; 93-840, eff. 7-30-04; 92-846, eff. 8-23-02;
24 93-29, eff. 6-20-03; 93-840, eff. 7-30-04; 93-871, eff. 8-6-04;
25 revised 10-25-04.)

26 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

27 Sec. 203. Base income defined.

28 (a) Individuals.

29 (1) In general. In the case of an individual, base
30 income means an amount equal to the taxpayer's adjusted
31 gross income for the taxable year as modified by paragraph
32 (2).

33 (2) Modifications. The adjusted gross income referred

1 to in paragraph (1) shall be modified by adding thereto the
2 sum of the following amounts:

3 (A) An amount equal to all amounts paid or accrued
4 to the taxpayer as interest or dividends during the
5 taxable year to the extent excluded from gross income
6 in the computation of adjusted gross income, except
7 stock dividends of qualified public utilities
8 described in Section 305(e) of the Internal Revenue
9 Code;

10 (B) An amount equal to the amount of tax imposed by
11 this Act to the extent deducted from gross income in
12 the computation of adjusted gross income for the
13 taxable year;

14 (C) An amount equal to the amount received during
15 the taxable year as a recovery or refund of real
16 property taxes paid with respect to the taxpayer's
17 principal residence under the Revenue Act of 1939 and
18 for which a deduction was previously taken under
19 subparagraph (L) of this paragraph (2) prior to July 1,
20 1991, the retrospective application date of Article 4
21 of Public Act 87-17. In the case of multi-unit or
22 multi-use structures and farm dwellings, the taxes on
23 the taxpayer's principal residence shall be that
24 portion of the total taxes for the entire property
25 which is attributable to such principal residence;

26 (D) An amount equal to the amount of the capital
27 gain deduction allowable under the Internal Revenue
28 Code, to the extent deducted from gross income in the
29 computation of adjusted gross income;

30 (D-5) An amount, to the extent not included in
31 adjusted gross income, equal to the amount of money
32 withdrawn by the taxpayer in the taxable year from a
33 medical care savings account and the interest earned on
34 the account in the taxable year of a withdrawal

1 pursuant to subsection (b) of Section 20 of the Medical
2 Care Savings Account Act or subsection (b) of Section
3 20 of the Medical Care Savings Account Act of 2000;

4 (D-10) For taxable years ending after December 31,
5 1997, an amount equal to any eligible remediation costs
6 that the individual deducted in computing adjusted
7 gross income and for which the individual claims a
8 credit under subsection (l) of Section 201;

9 (D-15) For taxable years 2001 and thereafter, an
10 amount equal to the bonus depreciation deduction (30%
11 of the adjusted basis of the qualified property) taken
12 on the taxpayer's federal income tax return for the
13 taxable year under subsection (k) of Section 168 of the
14 Internal Revenue Code;

15 (D-16) If the taxpayer reports a capital gain or
16 loss on the taxpayer's federal income tax return for
17 the taxable year based on a sale or transfer of
18 property for which the taxpayer was required in any
19 taxable year to make an addition modification under
20 subparagraph (D-15), then an amount equal to the
21 aggregate amount of the deductions taken in all taxable
22 years under subparagraph (Z) with respect to that
23 property;

24 The taxpayer is required to make the addition
25 modification under this subparagraph only once with
26 respect to any one piece of property;

27 (D-17) For taxable years ending on or after
28 December 31, 2004, an amount equal to the amount
29 otherwise allowed as a deduction in computing base
30 income for interest paid, accrued, or incurred,
31 directly or indirectly, to a foreign person who would
32 be a member of the same unitary business group but for
33 the fact that foreign person's business activity
34 outside the United States is 80% or more of the foreign

1 person's total business activity. The addition
2 modification required by this subparagraph shall be
3 reduced to the extent that dividends were included in
4 base income of the unitary group for the same taxable
5 year and received by the taxpayer or by a member of the
6 taxpayer's unitary business group (including amounts
7 included in gross income under Sections 951 through 964
8 of the Internal Revenue Code and amounts included in
9 gross income under Section 78 of the Internal Revenue
10 Code) with respect to the stock of the same person to
11 whom the interest was paid, accrued, or incurred.

12 This paragraph shall not apply to the following:

13 (i) an item of interest paid, accrued, or
14 incurred, directly or indirectly, to a foreign
15 person who is subject in a foreign country or
16 state, other than a state which requires mandatory
17 unitary reporting, to a tax on or measured by net
18 income with respect to such interest; or

19 (ii) an item of interest paid, accrued, or
20 incurred, directly or indirectly, to a foreign
21 person if the taxpayer can establish, based on a
22 preponderance of the evidence, both of the
23 following:

24 (a) the foreign person, during the same
25 taxable year, paid, accrued, or incurred, the
26 interest to a person that is not a related
27 member, and

28 (b) the transaction giving rise to the
29 interest expense between the taxpayer and the
30 foreign person did not have as a principal
31 purpose the avoidance of Illinois income tax,
32 and is paid pursuant to a contract or agreement
33 that reflects an arm's-length interest rate
34 and terms; or

1 (iii) the taxpayer can establish, based on
2 clear and convincing evidence, that the interest
3 paid, accrued, or incurred relates to a contract or
4 agreement entered into at arm's-length rates and
5 terms and the principal purpose for the payment is
6 not federal or Illinois tax avoidance; or

7 (iv) an item of interest paid, accrued, or
8 incurred, directly or indirectly, to a foreign
9 person if the taxpayer establishes by clear and
10 convincing evidence that the adjustments are
11 unreasonable; or if the taxpayer and the Director
12 agree in writing to the application or use of an
13 alternative method of apportionment under Section
14 304(f).

15 Nothing in this subsection shall preclude the
16 Director from making any other adjustment
17 otherwise allowed under Section 404 of this Act for
18 any tax year beginning after the effective date of
19 this amendment provided such adjustment is made
20 pursuant to regulation adopted by the Department
21 and such regulations provide methods and standards
22 by which the Department will utilize its authority
23 under Section 404 of this Act;

24 (D-18) For taxable years ending on or after
25 December 31, 2004, an amount equal to the amount of
26 intangible expenses and costs otherwise allowed as a
27 deduction in computing base income, and that were paid,
28 accrued, or incurred, directly or indirectly, to a
29 foreign person who would be a member of the same
30 unitary business group but for the fact that the
31 foreign person's business activity outside the United
32 States is 80% or more of that person's total business
33 activity. The addition modification required by this
34 subparagraph shall be reduced to the extent that

1 dividends were included in base income of the unitary
2 group for the same taxable year and received by the
3 taxpayer or by a member of the taxpayer's unitary
4 business group (including amounts included in gross
5 income under Sections 951 through 964 of the Internal
6 Revenue Code and amounts included in gross income under
7 Section 78 of the Internal Revenue Code) with respect
8 to the stock of the same person to whom the intangible
9 expenses and costs were directly or indirectly paid,
10 incurred, or accrued. The preceding sentence does not
11 apply to the extent that the same dividends caused a
12 reduction to the addition modification required under
13 Section 203(a)(2)(D-17) of this Act. As used in this
14 subparagraph, the term "intangible expenses and costs"
15 includes (1) expenses, losses, and costs for, or
16 related to, the direct or indirect acquisition, use,
17 maintenance or management, ownership, sale, exchange,
18 or any other disposition of intangible property; (2)
19 losses incurred, directly or indirectly, from
20 factoring transactions or discounting transactions;
21 (3) royalty, patent, technical, and copyright fees;
22 (4) licensing fees; and (5) other similar expenses and
23 costs. For purposes of this subparagraph, "intangible
24 property" includes patents, patent applications, trade
25 names, trademarks, service marks, copyrights, mask
26 works, trade secrets, and similar types of intangible
27 assets.

28 This paragraph shall not apply to the following:

29 (i) any item of intangible expenses or costs
30 paid, accrued, or incurred, directly or
31 indirectly, from a transaction with a foreign
32 person who is subject in a foreign country or
33 state, other than a state which requires mandatory
34 unitary reporting, to a tax on or measured by net

1 income with respect to such item; or

2 (ii) any item of intangible expense or cost
3 paid, accrued, or incurred, directly or
4 indirectly, if the taxpayer can establish, based
5 on a preponderance of the evidence, both of the
6 following:

7 (a) the foreign person during the same
8 taxable year paid, accrued, or incurred, the
9 intangible expense or cost to a person that is
10 not a related member, and

11 (b) the transaction giving rise to the
12 intangible expense or cost between the
13 taxpayer and the foreign person did not have as
14 a principal purpose the avoidance of Illinois
15 income tax, and is paid pursuant to a contract
16 or agreement that reflects arm's-length terms;
17 or

18 (iii) any item of intangible expense or cost
19 paid, accrued, or incurred, directly or
20 indirectly, from a transaction with a foreign
21 person if the taxpayer establishes by clear and
22 convincing evidence, that the adjustments are
23 unreasonable; or if the taxpayer and the Director
24 agree in writing to the application or use of an
25 alternative method of apportionment under Section
26 304(f);

27 Nothing in this subsection shall preclude the
28 Director from making any other adjustment
29 otherwise allowed under Section 404 of this Act for
30 any tax year beginning after the effective date of
31 this amendment provided such adjustment is made
32 pursuant to regulation adopted by the Department
33 and such regulations provide methods and standards
34 by which the Department will utilize its authority

1 under Section 404 of this Act;

2 (D-20) For taxable years beginning on or after
3 January 1, 2002, in the case of a distribution from a
4 qualified tuition program under Section 529 of the
5 Internal Revenue Code, other than (i) a distribution
6 from a College Savings Pool created under Section 16.5
7 of the State Treasurer Act or (ii) a distribution from
8 the Illinois Prepaid Tuition Trust Fund, an amount
9 equal to the amount excluded from gross income under
10 Section 529(c)(3)(B);

11 and by deducting from the total so obtained the sum of the
12 following amounts:

13 (E) For taxable years ending before December 31,
14 2001, any amount included in such total in respect of
15 any compensation (including but not limited to any
16 compensation paid or accrued to a serviceman while a
17 prisoner of war or missing in action) paid to a
18 resident by reason of being on active duty in the Armed
19 Forces of the United States and in respect of any
20 compensation paid or accrued to a resident who as a
21 governmental employee was a prisoner of war or missing
22 in action, and in respect of any compensation paid to a
23 resident in 1971 or thereafter for annual training
24 performed pursuant to Sections 502 and 503, Title 32,
25 United States Code as a member of the Illinois National
26 Guard. For taxable years ending on or after December
27 31, 2001, any amount included in such total in respect
28 of any compensation (including but not limited to any
29 compensation paid or accrued to a serviceman while a
30 prisoner of war or missing in action) paid to a
31 resident by reason of being a member of any component
32 of the Armed Forces of the United States and in respect
33 of any compensation paid or accrued to a resident who
34 as a governmental employee was a prisoner of war or

1 missing in action, and in respect of any compensation
2 paid to a resident in 2001 or thereafter by reason of
3 being a member of the Illinois National Guard. The
4 provisions of this amendatory Act of the 92nd General
5 Assembly are exempt from the provisions of Section 250;

6 (F) For taxable years beginning on or before
7 January 1, 2005, an ~~An~~ amount equal to all amounts
8 included in such total pursuant to the provisions of
9 Sections 402(a), 402(c), 403(a), 403(b), 406(a),
10 407(a), and 408 of the Internal Revenue Code, or
11 included in such total as distributions under the
12 provisions of any retirement or disability plan for
13 employees of any governmental agency or unit, or
14 retirement payments to retired partners, which
15 payments are excluded in computing net earnings from
16 self employment by Section 1402 of the Internal Revenue
17 Code and regulations adopted pursuant thereto;

18 (G) The valuation limitation amount;

19 (H) An amount equal to the amount of any tax
20 imposed by this Act which was refunded to the taxpayer
21 and included in such total for the taxable year;

22 (I) An amount equal to all amounts included in such
23 total pursuant to the provisions of Section 111 of the
24 Internal Revenue Code as a recovery of items previously
25 deducted from adjusted gross income in the computation
26 of taxable income;

27 (J) An amount equal to those dividends included in
28 such total which were paid by a corporation which
29 conducts business operations in an Enterprise Zone or
30 zones created under the Illinois Enterprise Zone Act,
31 and conducts substantially all of its operations in an
32 Enterprise Zone or zones;

33 (K) An amount equal to those dividends included in
34 such total that were paid by a corporation that

1 conducts business operations in a federally designated
2 Foreign Trade Zone or Sub-Zone and that is designated a
3 High Impact Business located in Illinois; provided
4 that dividends eligible for the deduction provided in
5 subparagraph (J) of paragraph (2) of this subsection
6 shall not be eligible for the deduction provided under
7 this subparagraph (K);

8 (L) For taxable years ending after December 31,
9 1983, an amount equal to all social security benefits
10 and railroad retirement benefits included in such
11 total pursuant to Sections 72(r) and 86 of the Internal
12 Revenue Code;

13 (M) With the exception of any amounts subtracted
14 under subparagraph (N), an amount equal to the sum of
15 all amounts disallowed as deductions by (i) Sections
16 171(a) (2), and 265(2) of the Internal Revenue Code of
17 1954, as now or hereafter amended, and all amounts of
18 expenses allocable to interest and disallowed as
19 deductions by Section 265(1) of the Internal Revenue
20 Code of 1954, as now or hereafter amended; and (ii) for
21 taxable years ending on or after August 13, 1999,
22 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
23 the Internal Revenue Code; the provisions of this
24 subparagraph are exempt from the provisions of Section
25 250;

26 (N) An amount equal to all amounts included in such
27 total which are exempt from taxation by this State
28 either by reason of its statutes or Constitution or by
29 reason of the Constitution, treaties or statutes of the
30 United States; provided that, in the case of any
31 statute of this State that exempts income derived from
32 bonds or other obligations from the tax imposed under
33 this Act, the amount exempted shall be the interest net
34 of bond premium amortization;

1 (O) An amount equal to any contribution made to a
2 job training project established pursuant to the Tax
3 Increment Allocation Redevelopment Act;

4 (P) An amount equal to the amount of the deduction
5 used to compute the federal income tax credit for
6 restoration of substantial amounts held under claim of
7 right for the taxable year pursuant to Section 1341 of
8 the Internal Revenue Code of 1986;

9 (Q) An amount equal to any amounts included in such
10 total, received by the taxpayer as an acceleration in
11 the payment of life, endowment or annuity benefits in
12 advance of the time they would otherwise be payable as
13 an indemnity for a terminal illness;

14 (R) An amount equal to the amount of any federal or
15 State bonus paid to veterans of the Persian Gulf War;

16 (S) An amount, to the extent included in adjusted
17 gross income, equal to the amount of a contribution
18 made in the taxable year on behalf of the taxpayer to a
19 medical care savings account established under the
20 Medical Care Savings Account Act or the Medical Care
21 Savings Account Act of 2000 to the extent the
22 contribution is accepted by the account administrator
23 as provided in that Act;

24 (T) An amount, to the extent included in adjusted
25 gross income, equal to the amount of interest earned in
26 the taxable year on a medical care savings account
27 established under the Medical Care Savings Account Act
28 or the Medical Care Savings Account Act of 2000 on
29 behalf of the taxpayer, other than interest added
30 pursuant to item (D-5) of this paragraph (2);

31 (U) For one taxable year beginning on or after
32 January 1, 1994, an amount equal to the total amount of
33 tax imposed and paid under subsections (a) and (b) of
34 Section 201 of this Act on grant amounts received by

1 the taxpayer under the Nursing Home Grant Assistance
2 Act during the taxpayer's taxable years 1992 and 1993;

3 (V) Beginning with tax years ending on or after
4 December 31, 1995 and ending with tax years ending on
5 or before December 31, 2004, an amount equal to the
6 amount paid by a taxpayer who is a self-employed
7 taxpayer, a partner of a partnership, or a shareholder
8 in a Subchapter S corporation for health insurance or
9 long-term care insurance for that taxpayer or that
10 taxpayer's spouse or dependents, to the extent that the
11 amount paid for that health insurance or long-term care
12 insurance may be deducted under Section 213 of the
13 Internal Revenue Code of 1986, has not been deducted on
14 the federal income tax return of the taxpayer, and does
15 not exceed the taxable income attributable to that
16 taxpayer's income, self-employment income, or
17 Subchapter S corporation income; except that no
18 deduction shall be allowed under this item (V) if the
19 taxpayer is eligible to participate in any health
20 insurance or long-term care insurance plan of an
21 employer of the taxpayer or the taxpayer's spouse. The
22 amount of the health insurance and long-term care
23 insurance subtracted under this item (V) shall be
24 determined by multiplying total health insurance and
25 long-term care insurance premiums paid by the taxpayer
26 times a number that represents the fractional
27 percentage of eligible medical expenses under Section
28 213 of the Internal Revenue Code of 1986 not actually
29 deducted on the taxpayer's federal income tax return;

30 (W) For taxable years beginning on or after January
31 1, 1998, all amounts included in the taxpayer's federal
32 gross income in the taxable year from amounts converted
33 from a regular IRA to a Roth IRA. This paragraph is
34 exempt from the provisions of Section 250;

1 (X) For taxable year 1999 and thereafter, an amount
2 equal to the amount of any (i) distributions, to the
3 extent includible in gross income for federal income
4 tax purposes, made to the taxpayer because of his or
5 her status as a victim of persecution for racial or
6 religious reasons by Nazi Germany or any other Axis
7 regime or as an heir of the victim and (ii) items of
8 income, to the extent includible in gross income for
9 federal income tax purposes, attributable to, derived
10 from or in any way related to assets stolen from,
11 hidden from, or otherwise lost to a victim of
12 persecution for racial or religious reasons by Nazi
13 Germany or any other Axis regime immediately prior to,
14 during, and immediately after World War II, including,
15 but not limited to, interest on the proceeds receivable
16 as insurance under policies issued to a victim of
17 persecution for racial or religious reasons by Nazi
18 Germany or any other Axis regime by European insurance
19 companies immediately prior to and during World War II;
20 provided, however, this subtraction from federal
21 adjusted gross income does not apply to assets acquired
22 with such assets or with the proceeds from the sale of
23 such assets; provided, further, this paragraph shall
24 only apply to a taxpayer who was the first recipient of
25 such assets after their recovery and who is a victim of
26 persecution for racial or religious reasons by Nazi
27 Germany or any other Axis regime or as an heir of the
28 victim. The amount of and the eligibility for any
29 public assistance, benefit, or similar entitlement is
30 not affected by the inclusion of items (i) and (ii) of
31 this paragraph in gross income for federal income tax
32 purposes. This paragraph is exempt from the provisions
33 of Section 250;

34 (Y) For taxable years beginning on or after January

1 1, 2002 and ending on or before December 31, 2004,
2 moneys contributed in the taxable year to a College
3 Savings Pool account under Section 16.5 of the State
4 Treasurer Act, except that amounts excluded from gross
5 income under Section 529(c)(3)(C)(i) of the Internal
6 Revenue Code shall not be considered moneys
7 contributed under this subparagraph (Y). For taxable
8 years beginning on or after January 1, 2005, a maximum
9 of \$10,000 contributed in the taxable year to (i) a
10 College Savings Pool account under Section 16.5 of the
11 State Treasurer Act or (ii) the Illinois Prepaid
12 Tuition Trust Fund, except that amounts excluded from
13 gross income under Section 529(c)(3)(C)(i) of the
14 Internal Revenue Code shall not be considered moneys
15 contributed under this subparagraph (Y). This
16 subparagraph (Y) is exempt from the provisions of
17 Section 250;

18 (Z) For taxable years 2001 and thereafter, for the
19 taxable year in which the bonus depreciation deduction
20 (30% of the adjusted basis of the qualified property)
21 is taken on the taxpayer's federal income tax return
22 under subsection (k) of Section 168 of the Internal
23 Revenue Code and for each applicable taxable year
24 thereafter, an amount equal to "x", where:

25 (1) "y" equals the amount of the depreciation
26 deduction taken for the taxable year on the
27 taxpayer's federal income tax return on property
28 for which the bonus depreciation deduction (30% of
29 the adjusted basis of the qualified property) was
30 taken in any year under subsection (k) of Section
31 168 of the Internal Revenue Code, but not including
32 the bonus depreciation deduction; and

33 (2) "x" equals "y" multiplied by 30 and then
34 divided by 70 (or "y" multiplied by 0.429).

1 The aggregate amount deducted under this
2 subparagraph in all taxable years for any one piece of
3 property may not exceed the amount of the bonus
4 depreciation deduction (30% of the adjusted basis of
5 the qualified property) taken on that property on the
6 taxpayer's federal income tax return under subsection
7 (k) of Section 168 of the Internal Revenue Code;

8 (AA) If the taxpayer reports a capital gain or loss
9 on the taxpayer's federal income tax return for the
10 taxable year based on a sale or transfer of property
11 for which the taxpayer was required in any taxable year
12 to make an addition modification under subparagraph
13 (D-15), then an amount equal to that addition
14 modification.

15 The taxpayer is allowed to take the deduction under
16 this subparagraph only once with respect to any one
17 piece of property;

18 (BB) Any amount included in adjusted gross income,
19 other than salary, received by a driver in a
20 ridesharing arrangement using a motor vehicle;

21 (CC) The amount of (i) any interest income (net of
22 the deductions allocable thereto) taken into account
23 for the taxable year with respect to a transaction with
24 a taxpayer that is required to make an addition
25 modification with respect to such transaction under
26 Section 203(a)(2)(D-17), 203(b)(2)(E-13),
27 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
28 the amount of that addition modification, and (ii) any
29 income from intangible property (net of the deductions
30 allocable thereto) taken into account for the taxable
31 year with respect to a transaction with a taxpayer that
32 is required to make an addition modification with
33 respect to such transaction under Section
34 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or

1 203(d)(2)(D-8), but not to exceed the amount of that
2 addition modification;

3 (DD) An amount equal to the interest income taken
4 into account for the taxable year (net of the
5 deductions allocable thereto) with respect to
6 transactions with a foreign person who would be a
7 member of the taxpayer's unitary business group but for
8 the fact that the foreign person's business activity
9 outside the United States is 80% or more of that
10 person's total business activity, but not to exceed the
11 addition modification required to be made for the same
12 taxable year under Section 203(a)(2)(D-17) for
13 interest paid, accrued, or incurred, directly or
14 indirectly, to the same foreign person; and

15 (EE) An amount equal to the income from intangible
16 property taken into account for the taxable year (net
17 of the deductions allocable thereto) with respect to
18 transactions with a foreign person who would be a
19 member of the taxpayer's unitary business group but for
20 the fact that the foreign person's business activity
21 outside the United States is 80% or more of that
22 person's total business activity, but not to exceed the
23 addition modification required to be made for the same
24 taxable year under Section 203(a)(2)(D-18) for
25 intangible expenses and costs paid, accrued, or
26 incurred, directly or indirectly, to the same foreign
27 person.

28 (b) Corporations.

29 (1) In general. In the case of a corporation, base
30 income means an amount equal to the taxpayer's taxable
31 income for the taxable year as modified by paragraph (2).

32 (2) Modifications. The taxable income referred to in
33 paragraph (1) shall be modified by adding thereto the sum

1 of the following amounts:

2 (A) An amount equal to all amounts paid or accrued
3 to the taxpayer as interest and all distributions
4 received from regulated investment companies during
5 the taxable year to the extent excluded from gross
6 income in the computation of taxable income;

7 (B) An amount equal to the amount of tax imposed by
8 this Act to the extent deducted from gross income in
9 the computation of taxable income for the taxable year;

10 (C) In the case of a regulated investment company,
11 an amount equal to the excess of (i) the net long-term
12 capital gain for the taxable year, over (ii) the amount
13 of the capital gain dividends designated as such in
14 accordance with Section 852(b)(3)(C) of the Internal
15 Revenue Code and any amount designated under Section
16 852(b)(3)(D) of the Internal Revenue Code,
17 attributable to the taxable year (this amendatory Act
18 of 1995 (Public Act 89-89) is declarative of existing
19 law and is not a new enactment);

20 (D) The amount of any net operating loss deduction
21 taken in arriving at taxable income, other than a net
22 operating loss carried forward from a taxable year
23 ending prior to December 31, 1986;

24 (E) For taxable years in which a net operating loss
25 carryback or carryforward from a taxable year ending
26 prior to December 31, 1986 is an element of taxable
27 income under paragraph (1) of subsection (e) or
28 subparagraph (E) of paragraph (2) of subsection (e),
29 the amount by which addition modifications other than
30 those provided by this subparagraph (E) exceeded
31 subtraction modifications in such earlier taxable
32 year, with the following limitations applied in the
33 order that they are listed:

34 (i) the addition modification relating to the

1 net operating loss carried back or forward to the
2 taxable year from any taxable year ending prior to
3 December 31, 1986 shall be reduced by the amount of
4 addition modification under this subparagraph (E)
5 which related to that net operating loss and which
6 was taken into account in calculating the base
7 income of an earlier taxable year, and

8 (ii) the addition modification relating to the
9 net operating loss carried back or forward to the
10 taxable year from any taxable year ending prior to
11 December 31, 1986 shall not exceed the amount of
12 such carryback or carryforward;

13 For taxable years in which there is a net operating
14 loss carryback or carryforward from more than one other
15 taxable year ending prior to December 31, 1986, the
16 addition modification provided in this subparagraph
17 (E) shall be the sum of the amounts computed
18 independently under the preceding provisions of this
19 subparagraph (E) for each such taxable year;

20 (E-5) For taxable years ending after December 31,
21 1997, an amount equal to any eligible remediation costs
22 that the corporation deducted in computing adjusted
23 gross income and for which the corporation claims a
24 credit under subsection (l) of Section 201;

25 (E-10) For taxable years 2001 and thereafter, an
26 amount equal to the bonus depreciation deduction (30%
27 of the adjusted basis of the qualified property) taken
28 on the taxpayer's federal income tax return for the
29 taxable year under subsection (k) of Section 168 of the
30 Internal Revenue Code; and

31 (E-11) If the taxpayer reports a capital gain or
32 loss on the taxpayer's federal income tax return for
33 the taxable year based on a sale or transfer of
34 property for which the taxpayer was required in any

1 taxable year to make an addition modification under
2 subparagraph (E-10), then an amount equal to the
3 aggregate amount of the deductions taken in all taxable
4 years under subparagraph (T) with respect to that
5 property.

6 The taxpayer is required to make the addition
7 modification under this subparagraph only once with
8 respect to any one piece of property;

9 (E-12) For taxable years ending on or after
10 December 31, 2004, an amount equal to the amount
11 otherwise allowed as a deduction in computing base
12 income for interest paid, accrued, or incurred,
13 directly or indirectly, to a foreign person who would
14 be a member of the same unitary business group but for
15 the fact the foreign person's business activity
16 outside the United States is 80% or more of the foreign
17 person's total business activity. The addition
18 modification required by this subparagraph shall be
19 reduced to the extent that dividends were included in
20 base income of the unitary group for the same taxable
21 year and received by the taxpayer or by a member of the
22 taxpayer's unitary business group (including amounts
23 included in gross income pursuant to Sections 951
24 through 964 of the Internal Revenue Code and amounts
25 included in gross income under Section 78 of the
26 Internal Revenue Code) with respect to the stock of the
27 same person to whom the interest was paid, accrued, or
28 incurred.

29 This paragraph shall not apply to the following:

30 (i) an item of interest paid, accrued, or
31 incurred, directly or indirectly, to a foreign
32 person who is subject in a foreign country or
33 state, other than a state which requires mandatory
34 unitary reporting, to a tax on or measured by net

1 income with respect to such interest; or

2 (ii) an item of interest paid, accrued, or
3 incurred, directly or indirectly, to a foreign
4 person if the taxpayer can establish, based on a
5 preponderance of the evidence, both of the
6 following:

7 (a) the foreign person, during the same
8 taxable year, paid, accrued, or incurred, the
9 interest to a person that is not a related
10 member, and

11 (b) the transaction giving rise to the
12 interest expense between the taxpayer and the
13 foreign person did not have as a principal
14 purpose the avoidance of Illinois income tax,
15 and is paid pursuant to a contract or agreement
16 that reflects an arm's-length interest rate
17 and terms; or

18 (iii) the taxpayer can establish, based on
19 clear and convincing evidence, that the interest
20 paid, accrued, or incurred relates to a contract or
21 agreement entered into at arm's-length rates and
22 terms and the principal purpose for the payment is
23 not federal or Illinois tax avoidance; or

24 (iv) an item of interest paid, accrued, or
25 incurred, directly or indirectly, to a foreign
26 person if the taxpayer establishes by clear and
27 convincing evidence that the adjustments are
28 unreasonable; or if the taxpayer and the Director
29 agree in writing to the application or use of an
30 alternative method of apportionment under Section
31 304(f).

32 Nothing in this subsection shall preclude the
33 Director from making any other adjustment
34 otherwise allowed under Section 404 of this Act for

1 any tax year beginning after the effective date of
2 this amendment provided such adjustment is made
3 pursuant to regulation adopted by the Department
4 and such regulations provide methods and standards
5 by which the Department will utilize its authority
6 under Section 404 of this Act;

7 (E-13) For taxable years ending on or after
8 December 31, 2004, an amount equal to the amount of
9 intangible expenses and costs otherwise allowed as a
10 deduction in computing base income, and that were paid,
11 accrued, or incurred, directly or indirectly, to a
12 foreign person who would be a member of the same
13 unitary business group but for the fact that the
14 foreign person's business activity outside the United
15 States is 80% or more of that person's total business
16 activity. The addition modification required by this
17 subparagraph shall be reduced to the extent that
18 dividends were included in base income of the unitary
19 group for the same taxable year and received by the
20 taxpayer or by a member of the taxpayer's unitary
21 business group (including amounts included in gross
22 income pursuant to Sections 951 through 964 of the
23 Internal Revenue Code and amounts included in gross
24 income under Section 78 of the Internal Revenue Code)
25 with respect to the stock of the same person to whom
26 the intangible expenses and costs were directly or
27 indirectly paid, incurred, or accrued. The preceding
28 sentence shall not apply to the extent that the same
29 dividends caused a reduction to the addition
30 modification required under Section 203(b)(2)(E-12) of
31 this Act. As used in this subparagraph, the term
32 "intangible expenses and costs" includes (1) expenses,
33 losses, and costs for, or related to, the direct or
34 indirect acquisition, use, maintenance or management,

1 ownership, sale, exchange, or any other disposition of
2 intangible property; (2) losses incurred, directly or
3 indirectly, from factoring transactions or discounting
4 transactions; (3) royalty, patent, technical, and
5 copyright fees; (4) licensing fees; and (5) other
6 similar expenses and costs. For purposes of this
7 subparagraph, "intangible property" includes patents,
8 patent applications, trade names, trademarks, service
9 marks, copyrights, mask works, trade secrets, and
10 similar types of intangible assets.

11 This paragraph shall not apply to the following:

12 (i) any item of intangible expenses or costs
13 paid, accrued, or incurred, directly or
14 indirectly, from a transaction with a foreign
15 person who is subject in a foreign country or
16 state, other than a state which requires mandatory
17 unitary reporting, to a tax on or measured by net
18 income with respect to such item; or

19 (ii) any item of intangible expense or cost
20 paid, accrued, or incurred, directly or
21 indirectly, if the taxpayer can establish, based
22 on a preponderance of the evidence, both of the
23 following:

24 (a) the foreign person during the same
25 taxable year paid, accrued, or incurred, the
26 intangible expense or cost to a person that is
27 not a related member, and

28 (b) the transaction giving rise to the
29 intangible expense or cost between the
30 taxpayer and the foreign person did not have as
31 a principal purpose the avoidance of Illinois
32 income tax, and is paid pursuant to a contract
33 or agreement that reflects arm's-length terms;
34 or

1 (iii) any item of intangible expense or cost
2 paid, accrued, or incurred, directly or
3 indirectly, from a transaction with a foreign
4 person if the taxpayer establishes by clear and
5 convincing evidence, that the adjustments are
6 unreasonable; or if the taxpayer and the Director
7 agree in writing to the application or use of an
8 alternative method of apportionment under Section
9 304(f);

10 Nothing in this subsection shall preclude the
11 Director from making any other adjustment
12 otherwise allowed under Section 404 of this Act for
13 any tax year beginning after the effective date of
14 this amendment provided such adjustment is made
15 pursuant to regulation adopted by the Department
16 and such regulations provide methods and standards
17 by which the Department will utilize its authority
18 under Section 404 of this Act;

19 and by deducting from the total so obtained the sum of the
20 following amounts:

21 (F) An amount equal to the amount of any tax
22 imposed by this Act which was refunded to the taxpayer
23 and included in such total for the taxable year;

24 (G) An amount equal to any amount included in such
25 total under Section 78 of the Internal Revenue Code;

26 (H) In the case of a regulated investment company,
27 an amount equal to the amount of exempt interest
28 dividends as defined in subsection (b) (5) of Section
29 852 of the Internal Revenue Code, paid to shareholders
30 for the taxable year;

31 (I) With the exception of any amounts subtracted
32 under subparagraph (J), an amount equal to the sum of
33 all amounts disallowed as deductions by (i) Sections
34 171(a) (2), and 265(a) (2) and amounts disallowed as

1 interest expense by Section 291(a)(3) of the Internal
2 Revenue Code, as now or hereafter amended, and all
3 amounts of expenses allocable to interest and
4 disallowed as deductions by Section 265(a)(1) of the
5 Internal Revenue Code, as now or hereafter amended; and
6 (ii) for taxable years ending on or after August 13,
7 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
8 832(b)(5)(B)(i) of the Internal Revenue Code; the
9 provisions of this subparagraph are exempt from the
10 provisions of Section 250;

11 (J) An amount equal to all amounts included in such
12 total which are exempt from taxation by this State
13 either by reason of its statutes or Constitution or by
14 reason of the Constitution, treaties or statutes of the
15 United States; provided that, in the case of any
16 statute of this State that exempts income derived from
17 bonds or other obligations from the tax imposed under
18 this Act, the amount exempted shall be the interest net
19 of bond premium amortization;

20 (K) (Blank); ~~An amount equal to those dividends~~
21 ~~included in such total which were paid by a corporation~~
22 ~~which conducts business operations in an Enterprise~~
23 ~~Zone or zones created under the Illinois Enterprise~~
24 ~~Zone Act and conducts substantially all of its~~
25 ~~operations in an Enterprise Zone or zones;~~

26 (L) (Blank); ~~An amount equal to those dividends~~
27 ~~included in such total that were paid by a corporation~~
28 ~~that conducts business operations in a federally~~
29 ~~designated Foreign Trade Zone or Sub-Zone and that is~~
30 ~~designated a High Impact Business located in Illinois;~~
31 ~~provided that dividends eligible for the deduction~~
32 ~~provided in subparagraph (K) of paragraph 2 of this~~
33 ~~subsection shall not be eligible for the deduction~~
34 ~~provided under this subparagraph (L);~~

1 (M) For any taxpayer that is a financial
2 organization within the meaning of Section 304(c) of
3 this Act, an amount included in such total as interest
4 income from a loan or loans made by such taxpayer to a
5 borrower, to the extent that such a loan is secured by
6 property which is eligible for the Enterprise Zone
7 Investment Credit. To determine the portion of a loan
8 or loans that is secured by property eligible for a
9 Section 201(f) investment credit to the borrower, the
10 entire principal amount of the loan or loans between
11 the taxpayer and the borrower should be divided into
12 the basis of the Section 201(f) investment credit
13 property which secures the loan or loans, using for
14 this purpose the original basis of such property on the
15 date that it was placed in service in the Enterprise
16 Zone. The subtraction modification available to
17 taxpayer in any year under this subsection shall be
18 that portion of the total interest paid by the borrower
19 with respect to such loan attributable to the eligible
20 property as calculated under the previous sentence;

21 (M-1) For any taxpayer that is a financial
22 organization within the meaning of Section 304(c) of
23 this Act, an amount included in such total as interest
24 income from a loan or loans made by such taxpayer to a
25 borrower, to the extent that such a loan is secured by
26 property which is eligible for the High Impact Business
27 Investment Credit. To determine the portion of a loan
28 or loans that is secured by property eligible for a
29 Section 201(h) investment credit to the borrower, the
30 entire principal amount of the loan or loans between
31 the taxpayer and the borrower should be divided into
32 the basis of the Section 201(h) investment credit
33 property which secures the loan or loans, using for
34 this purpose the original basis of such property on the

1 date that it was placed in service in a federally
2 designated Foreign Trade Zone or Sub-Zone located in
3 Illinois. No taxpayer that is eligible for the
4 deduction provided in subparagraph (M) of paragraph
5 (2) of this subsection shall be eligible for the
6 deduction provided under this subparagraph (M-1). The
7 subtraction modification available to taxpayers in any
8 year under this subsection shall be that portion of the
9 total interest paid by the borrower with respect to
10 such loan attributable to the eligible property as
11 calculated under the previous sentence;

12 (N) Two times any contribution made during the
13 taxable year to a designated zone organization to the
14 extent that the contribution (i) qualifies as a
15 charitable contribution under subsection (c) of
16 Section 170 of the Internal Revenue Code and (ii) must,
17 by its terms, be used for a project approved by the
18 Department of Commerce and Economic Opportunity under
19 Section 11 of the Illinois Enterprise Zone Act;

20 (O) An amount equal to: (i) 85% for taxable years
21 ending on or before December 31, 1992, or, a percentage
22 equal to the percentage allowable under Section
23 243(a)(1) of the Internal Revenue Code of 1986 for
24 taxable years ending after December 31, 1992, of the
25 amount by which dividends included in taxable income
26 and received from a corporation that is not created or
27 organized under the laws of the United States or any
28 state or political subdivision thereof, including, for
29 taxable years ending on or after December 31, 1988,
30 dividends received or deemed received or paid or deemed
31 paid under Sections 951 through 964 of the Internal
32 Revenue Code, exceed the amount of the modification
33 provided under subparagraph (G) of paragraph (2) of
34 this subsection (b) which is related to such dividends;

1 plus (ii) 100% of the amount by which dividends,
2 included in taxable income and received, including,
3 for taxable years ending on or after December 31, 1988,
4 dividends received or deemed received or paid or deemed
5 paid under Sections 951 through 964 of the Internal
6 Revenue Code, from any such corporation specified in
7 clause (i) that would but for the provisions of Section
8 1504 (b) (3) of the Internal Revenue Code be treated as
9 a member of the affiliated group which includes the
10 dividend recipient, exceed the amount of the
11 modification provided under subparagraph (G) of
12 paragraph (2) of this subsection (b) which is related
13 to such dividends;

14 (P) An amount equal to any contribution made to a
15 job training project established pursuant to the Tax
16 Increment Allocation Redevelopment Act;

17 (Q) An amount equal to the amount of the deduction
18 used to compute the federal income tax credit for
19 restoration of substantial amounts held under claim of
20 right for the taxable year pursuant to Section 1341 of
21 the Internal Revenue Code of 1986;

22 (R) In the case of an attorney-in-fact with respect
23 to whom an interinsurer or a reciprocal insurer has
24 made the election under Section 835 of the Internal
25 Revenue Code, 26 U.S.C. 835, an amount equal to the
26 excess, if any, of the amounts paid or incurred by that
27 interinsurer or reciprocal insurer in the taxable year
28 to the attorney-in-fact over the deduction allowed to
29 that interinsurer or reciprocal insurer with respect
30 to the attorney-in-fact under Section 835(b) of the
31 Internal Revenue Code for the taxable year;

32 (S) For taxable years ending on or after December
33 31, 1997, in the case of a Subchapter S corporation, an
34 amount equal to all amounts of income allocable to a

1 shareholder subject to the Personal Property Tax
2 Replacement Income Tax imposed by subsections (c) and
3 (d) of Section 201 of this Act, including amounts
4 allocable to organizations exempt from federal income
5 tax by reason of Section 501(a) of the Internal Revenue
6 Code. This subparagraph (S) is exempt from the
7 provisions of Section 250;

8 (T) For taxable years 2001 and thereafter, for the
9 taxable year in which the bonus depreciation deduction
10 (30% of the adjusted basis of the qualified property)
11 is taken on the taxpayer's federal income tax return
12 under subsection (k) of Section 168 of the Internal
13 Revenue Code and for each applicable taxable year
14 thereafter, an amount equal to "x", where:

15 (1) "y" equals the amount of the depreciation
16 deduction taken for the taxable year on the
17 taxpayer's federal income tax return on property
18 for which the bonus depreciation deduction (30% of
19 the adjusted basis of the qualified property) was
20 taken in any year under subsection (k) of Section
21 168 of the Internal Revenue Code, but not including
22 the bonus depreciation deduction; and

23 (2) "x" equals "y" multiplied by 30 and then
24 divided by 70 (or "y" multiplied by 0.429).

25 The aggregate amount deducted under this
26 subparagraph in all taxable years for any one piece of
27 property may not exceed the amount of the bonus
28 depreciation deduction (30% of the adjusted basis of
29 the qualified property) taken on that property on the
30 taxpayer's federal income tax return under subsection
31 (k) of Section 168 of the Internal Revenue Code;

32 (U) If the taxpayer reports a capital gain or loss
33 on the taxpayer's federal income tax return for the
34 taxable year based on a sale or transfer of property

1 for which the taxpayer was required in any taxable year
2 to make an addition modification under subparagraph
3 (E-10), then an amount equal to that addition
4 modification.

5 The taxpayer is allowed to take the deduction under
6 this subparagraph only once with respect to any one
7 piece of property;

8 (V) The amount of: (i) any interest income (net of
9 the deductions allocable thereto) taken into account
10 for the taxable year with respect to a transaction with
11 a taxpayer that is required to make an addition
12 modification with respect to such transaction under
13 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
14 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
15 the amount of such addition modification and (ii) any
16 income from intangible property (net of the deductions
17 allocable thereto) taken into account for the taxable
18 year with respect to a transaction with a taxpayer that
19 is required to make an addition modification with
20 respect to such transaction under Section
21 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
22 203(d)(2)(D-8), but not to exceed the amount of such
23 addition modification;

24 (W) An amount equal to the interest income taken
25 into account for the taxable year (net of the
26 deductions allocable thereto) with respect to
27 transactions with a foreign person who would be a
28 member of the taxpayer's unitary business group but for
29 the fact that the foreign person's business activity
30 outside the United States is 80% or more of that
31 person's total business activity, but not to exceed the
32 addition modification required to be made for the same
33 taxable year under Section 203(b)(2)(E-12) for
34 interest paid, accrued, or incurred, directly or

1 indirectly, to the same foreign person; and

2 (X) An amount equal to the income from intangible
3 property taken into account for the taxable year (net
4 of the deductions allocable thereto) with respect to
5 transactions with a foreign person who would be a
6 member of the taxpayer's unitary business group but for
7 the fact that the foreign person's business activity
8 outside the United States is 80% or more of that
9 person's total business activity, but not to exceed the
10 addition modification required to be made for the same
11 taxable year under Section 203(b)(2)(E-13) for
12 intangible expenses and costs paid, accrued, or
13 incurred, directly or indirectly, to the same foreign
14 person.

15 (3) Special rule. For purposes of paragraph (2) (A),
16 "gross income" in the case of a life insurance company, for
17 tax years ending on and after December 31, 1994, shall mean
18 the gross investment income for the taxable year.

19 (c) Trusts and estates.

20 (1) In general. In the case of a trust or estate, base
21 income means an amount equal to the taxpayer's taxable
22 income for the taxable year as modified by paragraph (2).

23 (2) Modifications. Subject to the provisions of
24 paragraph (3), the taxable income referred to in paragraph
25 (1) shall be modified by adding thereto the sum of the
26 following amounts:

27 (A) An amount equal to all amounts paid or accrued
28 to the taxpayer as interest or dividends during the
29 taxable year to the extent excluded from gross income
30 in the computation of taxable income;

31 (B) In the case of (i) an estate, \$600; (ii) a
32 trust which, under its governing instrument, is
33 required to distribute all of its income currently,

1 \$300; and (iii) any other trust, \$100, but in each such
2 case, only to the extent such amount was deducted in
3 the computation of taxable income;

4 (C) An amount equal to the amount of tax imposed by
5 this Act to the extent deducted from gross income in
6 the computation of taxable income for the taxable year;

7 (D) The amount of any net operating loss deduction
8 taken in arriving at taxable income, other than a net
9 operating loss carried forward from a taxable year
10 ending prior to December 31, 1986;

11 (E) For taxable years in which a net operating loss
12 carryback or carryforward from a taxable year ending
13 prior to December 31, 1986 is an element of taxable
14 income under paragraph (1) of subsection (e) or
15 subparagraph (E) of paragraph (2) of subsection (e),
16 the amount by which addition modifications other than
17 those provided by this subparagraph (E) exceeded
18 subtraction modifications in such taxable year, with
19 the following limitations applied in the order that
20 they are listed:

21 (i) the addition modification relating to the
22 net operating loss carried back or forward to the
23 taxable year from any taxable year ending prior to
24 December 31, 1986 shall be reduced by the amount of
25 addition modification under this subparagraph (E)
26 which related to that net operating loss and which
27 was taken into account in calculating the base
28 income of an earlier taxable year, and

29 (ii) the addition modification relating to the
30 net operating loss carried back or forward to the
31 taxable year from any taxable year ending prior to
32 December 31, 1986 shall not exceed the amount of
33 such carryback or carryforward;

34 For taxable years in which there is a net operating

1 loss carryback or carryforward from more than one other
2 taxable year ending prior to December 31, 1986, the
3 addition modification provided in this subparagraph
4 (E) shall be the sum of the amounts computed
5 independently under the preceding provisions of this
6 subparagraph (E) for each such taxable year;

7 (F) For taxable years ending on or after January 1,
8 1989, an amount equal to the tax deducted pursuant to
9 Section 164 of the Internal Revenue Code if the trust
10 or estate is claiming the same tax for purposes of the
11 Illinois foreign tax credit under Section 601 of this
12 Act;

13 (G) An amount equal to the amount of the capital
14 gain deduction allowable under the Internal Revenue
15 Code, to the extent deducted from gross income in the
16 computation of taxable income;

17 (G-5) For taxable years ending after December 31,
18 1997, an amount equal to any eligible remediation costs
19 that the trust or estate deducted in computing adjusted
20 gross income and for which the trust or estate claims a
21 credit under subsection (l) of Section 201;

22 (G-10) For taxable years 2001 and thereafter, an
23 amount equal to the bonus depreciation deduction (30%
24 of the adjusted basis of the qualified property) taken
25 on the taxpayer's federal income tax return for the
26 taxable year under subsection (k) of Section 168 of the
27 Internal Revenue Code; and

28 (G-11) If the taxpayer reports a capital gain or
29 loss on the taxpayer's federal income tax return for
30 the taxable year based on a sale or transfer of
31 property for which the taxpayer was required in any
32 taxable year to make an addition modification under
33 subparagraph (G-10), then an amount equal to the
34 aggregate amount of the deductions taken in all taxable

1 years under subparagraph (R) with respect to that
2 property.

3 The taxpayer is required to make the addition
4 modification under this subparagraph only once with
5 respect to any one piece of property;

6 (G-12) For taxable years ending on or after
7 December 31, 2004, an amount equal to the amount
8 otherwise allowed as a deduction in computing base
9 income for interest paid, accrued, or incurred,
10 directly or indirectly, to a foreign person who would
11 be a member of the same unitary business group but for
12 the fact that the foreign person's business activity
13 outside the United States is 80% or more of the foreign
14 person's total business activity. The addition
15 modification required by this subparagraph shall be
16 reduced to the extent that dividends were included in
17 base income of the unitary group for the same taxable
18 year and received by the taxpayer or by a member of the
19 taxpayer's unitary business group (including amounts
20 included in gross income pursuant to Sections 951
21 through 964 of the Internal Revenue Code and amounts
22 included in gross income under Section 78 of the
23 Internal Revenue Code) with respect to the stock of the
24 same person to whom the interest was paid, accrued, or
25 incurred.

26 This paragraph shall not apply to the following:

27 (i) an item of interest paid, accrued, or
28 incurred, directly or indirectly, to a foreign
29 person who is subject in a foreign country or
30 state, other than a state which requires mandatory
31 unitary reporting, to a tax on or measured by net
32 income with respect to such interest; or

33 (ii) an item of interest paid, accrued, or
34 incurred, directly or indirectly, to a foreign

1 person if the taxpayer can establish, based on a
2 preponderance of the evidence, both of the
3 following:

4 (a) the foreign person, during the same
5 taxable year, paid, accrued, or incurred, the
6 interest to a person that is not a related
7 member, and

8 (b) the transaction giving rise to the
9 interest expense between the taxpayer and the
10 foreign person did not have as a principal
11 purpose the avoidance of Illinois income tax,
12 and is paid pursuant to a contract or agreement
13 that reflects an arm's-length interest rate
14 and terms; or

15 (iii) the taxpayer can establish, based on
16 clear and convincing evidence, that the interest
17 paid, accrued, or incurred relates to a contract or
18 agreement entered into at arm's-length rates and
19 terms and the principal purpose for the payment is
20 not federal or Illinois tax avoidance; or

21 (iv) an item of interest paid, accrued, or
22 incurred, directly or indirectly, to a foreign
23 person if the taxpayer establishes by clear and
24 convincing evidence that the adjustments are
25 unreasonable; or if the taxpayer and the Director
26 agree in writing to the application or use of an
27 alternative method of apportionment under Section
28 304(f).

29 Nothing in this subsection shall preclude the
30 Director from making any other adjustment
31 otherwise allowed under Section 404 of this Act for
32 any tax year beginning after the effective date of
33 this amendment provided such adjustment is made
34 pursuant to regulation adopted by the Department

1 and such regulations provide methods and standards
2 by which the Department will utilize its authority
3 under Section 404 of this Act;

4 (G-13) For taxable years ending on or after
5 December 31, 2004, an amount equal to the amount of
6 intangible expenses and costs otherwise allowed as a
7 deduction in computing base income, and that were paid,
8 accrued, or incurred, directly or indirectly, to a
9 foreign person who would be a member of the same
10 unitary business group but for the fact that the
11 foreign person's business activity outside the United
12 States is 80% or more of that person's total business
13 activity. The addition modification required by this
14 subparagraph shall be reduced to the extent that
15 dividends were included in base income of the unitary
16 group for the same taxable year and received by the
17 taxpayer or by a member of the taxpayer's unitary
18 business group (including amounts included in gross
19 income pursuant to Sections 951 through 964 of the
20 Internal Revenue Code and amounts included in gross
21 income under Section 78 of the Internal Revenue Code)
22 with respect to the stock of the same person to whom
23 the intangible expenses and costs were directly or
24 indirectly paid, incurred, or accrued. The preceding
25 sentence shall not apply to the extent that the same
26 dividends caused a reduction to the addition
27 modification required under Section 203(c)(2)(G-12) of
28 this Act. As used in this subparagraph, the term
29 "intangible expenses and costs" includes: (1)
30 expenses, losses, and costs for or related to the
31 direct or indirect acquisition, use, maintenance or
32 management, ownership, sale, exchange, or any other
33 disposition of intangible property; (2) losses
34 incurred, directly or indirectly, from factoring

1 transactions or discounting transactions; (3) royalty,
2 patent, technical, and copyright fees; (4) licensing
3 fees; and (5) other similar expenses and costs. For
4 purposes of this subparagraph, "intangible property"
5 includes patents, patent applications, trade names,
6 trademarks, service marks, copyrights, mask works,
7 trade secrets, and similar types of intangible assets.

8 This paragraph shall not apply to the following:

9 (i) any item of intangible expenses or costs
10 paid, accrued, or incurred, directly or
11 indirectly, from a transaction with a foreign
12 person who is subject in a foreign country or
13 state, other than a state which requires mandatory
14 unitary reporting, to a tax on or measured by net
15 income with respect to such item; or

16 (ii) any item of intangible expense or cost
17 paid, accrued, or incurred, directly or
18 indirectly, if the taxpayer can establish, based
19 on a preponderance of the evidence, both of the
20 following:

21 (a) the foreign person during the same
22 taxable year paid, accrued, or incurred, the
23 intangible expense or cost to a person that is
24 not a related member, and

25 (b) the transaction giving rise to the
26 intangible expense or cost between the
27 taxpayer and the foreign person did not have as
28 a principal purpose the avoidance of Illinois
29 income tax, and is paid pursuant to a contract
30 or agreement that reflects arm's-length terms;
31 or

32 (iii) any item of intangible expense or cost
33 paid, accrued, or incurred, directly or
34 indirectly, from a transaction with a foreign

1 person if the taxpayer establishes by clear and
2 convincing evidence, that the adjustments are
3 unreasonable; or if the taxpayer and the Director
4 agree in writing to the application or use of an
5 alternative method of apportionment under Section
6 304(f);

7 Nothing in this subsection shall preclude the
8 Director from making any other adjustment
9 otherwise allowed under Section 404 of this Act for
10 any tax year beginning after the effective date of
11 this amendment provided such adjustment is made
12 pursuant to regulation adopted by the Department
13 and such regulations provide methods and standards
14 by which the Department will utilize its authority
15 under Section 404 of this Act;

16 and by deducting from the total so obtained the sum of the
17 following amounts:

18 (H) An amount equal to all amounts included in such
19 total pursuant to the provisions of Sections 402(a),
20 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
21 Internal Revenue Code or included in such total as
22 distributions under the provisions of any retirement
23 or disability plan for employees of any governmental
24 agency or unit, or retirement payments to retired
25 partners, which payments are excluded in computing net
26 earnings from self employment by Section 1402 of the
27 Internal Revenue Code and regulations adopted pursuant
28 thereto;

29 (I) The valuation limitation amount;

30 (J) An amount equal to the amount of any tax
31 imposed by this Act which was refunded to the taxpayer
32 and included in such total for the taxable year;

33 (K) An amount equal to all amounts included in
34 taxable income as modified by subparagraphs (A), (B),

1 (C), (D), (E), (F) and (G) which are exempt from
2 taxation by this State either by reason of its statutes
3 or Constitution or by reason of the Constitution,
4 treaties or statutes of the United States; provided
5 that, in the case of any statute of this State that
6 exempts income derived from bonds or other obligations
7 from the tax imposed under this Act, the amount
8 exempted shall be the interest net of bond premium
9 amortization;

10 (L) With the exception of any amounts subtracted
11 under subparagraph (K), an amount equal to the sum of
12 all amounts disallowed as deductions by (i) Sections
13 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
14 as now or hereafter amended, and all amounts of
15 expenses allocable to interest and disallowed as
16 deductions by Section 265(1) of the Internal Revenue
17 Code of 1954, as now or hereafter amended; and (ii) for
18 taxable years ending on or after August 13, 1999,
19 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
20 the Internal Revenue Code; the provisions of this
21 subparagraph are exempt from the provisions of Section
22 250;

23 (M) An amount equal to those dividends included in
24 such total which were paid by a corporation which
25 conducts business operations in an Enterprise Zone or
26 zones created under the Illinois Enterprise Zone Act
27 and conducts substantially all of its operations in an
28 Enterprise Zone or Zones;

29 (N) An amount equal to any contribution made to a
30 job training project established pursuant to the Tax
31 Increment Allocation Redevelopment Act;

32 (O) An amount equal to those dividends included in
33 such total that were paid by a corporation that
34 conducts business operations in a federally designated

1 Foreign Trade Zone or Sub-Zone and that is designated a
2 High Impact Business located in Illinois; provided
3 that dividends eligible for the deduction provided in
4 subparagraph (M) of paragraph (2) of this subsection
5 shall not be eligible for the deduction provided under
6 this subparagraph (O);

7 (P) An amount equal to the amount of the deduction
8 used to compute the federal income tax credit for
9 restoration of substantial amounts held under claim of
10 right for the taxable year pursuant to Section 1341 of
11 the Internal Revenue Code of 1986;

12 (Q) For taxable year 1999 and thereafter, an amount
13 equal to the amount of any (i) distributions, to the
14 extent includible in gross income for federal income
15 tax purposes, made to the taxpayer because of his or
16 her status as a victim of persecution for racial or
17 religious reasons by Nazi Germany or any other Axis
18 regime or as an heir of the victim and (ii) items of
19 income, to the extent includible in gross income for
20 federal income tax purposes, attributable to, derived
21 from or in any way related to assets stolen from,
22 hidden from, or otherwise lost to a victim of
23 persecution for racial or religious reasons by Nazi
24 Germany or any other Axis regime immediately prior to,
25 during, and immediately after World War II, including,
26 but not limited to, interest on the proceeds receivable
27 as insurance under policies issued to a victim of
28 persecution for racial or religious reasons by Nazi
29 Germany or any other Axis regime by European insurance
30 companies immediately prior to and during World War II;
31 provided, however, this subtraction from federal
32 adjusted gross income does not apply to assets acquired
33 with such assets or with the proceeds from the sale of
34 such assets; provided, further, this paragraph shall

1 only apply to a taxpayer who was the first recipient of
2 such assets after their recovery and who is a victim of
3 persecution for racial or religious reasons by Nazi
4 Germany or any other Axis regime or as an heir of the
5 victim. The amount of and the eligibility for any
6 public assistance, benefit, or similar entitlement is
7 not affected by the inclusion of items (i) and (ii) of
8 this paragraph in gross income for federal income tax
9 purposes. This paragraph is exempt from the provisions
10 of Section 250;

11 (R) For taxable years 2001 and thereafter, for the
12 taxable year in which the bonus depreciation deduction
13 (30% of the adjusted basis of the qualified property)
14 is taken on the taxpayer's federal income tax return
15 under subsection (k) of Section 168 of the Internal
16 Revenue Code and for each applicable taxable year
17 thereafter, an amount equal to "x", where:

18 (1) "y" equals the amount of the depreciation
19 deduction taken for the taxable year on the
20 taxpayer's federal income tax return on property
21 for which the bonus depreciation deduction (30% of
22 the adjusted basis of the qualified property) was
23 taken in any year under subsection (k) of Section
24 168 of the Internal Revenue Code, but not including
25 the bonus depreciation deduction; and

26 (2) "x" equals "y" multiplied by 30 and then
27 divided by 70 (or "y" multiplied by 0.429).

28 The aggregate amount deducted under this
29 subparagraph in all taxable years for any one piece of
30 property may not exceed the amount of the bonus
31 depreciation deduction (30% of the adjusted basis of
32 the qualified property) taken on that property on the
33 taxpayer's federal income tax return under subsection
34 (k) of Section 168 of the Internal Revenue Code;

1 (S) If the taxpayer reports a capital gain or loss
2 on the taxpayer's federal income tax return for the
3 taxable year based on a sale or transfer of property
4 for which the taxpayer was required in any taxable year
5 to make an addition modification under subparagraph
6 (G-10), then an amount equal to that addition
7 modification.

8 The taxpayer is allowed to take the deduction under
9 this subparagraph only once with respect to any one
10 piece of property;

11 (T) The amount of (i) any interest income (net of
12 the deductions allocable thereto) taken into account
13 for the taxable year with respect to a transaction with
14 a taxpayer that is required to make an addition
15 modification with respect to such transaction under
16 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
17 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
18 the amount of such addition modification and (ii) any
19 income from intangible property (net of the deductions
20 allocable thereto) taken into account for the taxable
21 year with respect to a transaction with a taxpayer that
22 is required to make an addition modification with
23 respect to such transaction under Section
24 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
25 203(d)(2)(D-8), but not to exceed the amount of such
26 addition modification;

27 (U) An amount equal to the interest income taken
28 into account for the taxable year (net of the
29 deductions allocable thereto) with respect to
30 transactions with a foreign person who would be a
31 member of the taxpayer's unitary business group but for
32 the fact the foreign person's business activity
33 outside the United States is 80% or more of that
34 person's total business activity, but not to exceed the

1 addition modification required to be made for the same
2 taxable year under Section 203(c)(2)(G-12) for
3 interest paid, accrued, or incurred, directly or
4 indirectly, to the same foreign person; and

5 (V) An amount equal to the income from intangible
6 property taken into account for the taxable year (net
7 of the deductions allocable thereto) with respect to
8 transactions with a foreign person who would be a
9 member of the taxpayer's unitary business group but for
10 the fact that the foreign person's business activity
11 outside the United States is 80% or more of that
12 person's total business activity, but not to exceed the
13 addition modification required to be made for the same
14 taxable year under Section 203(c)(2)(G-13) for
15 intangible expenses and costs paid, accrued, or
16 incurred, directly or indirectly, to the same foreign
17 person.

18 (3) Limitation. The amount of any modification
19 otherwise required under this subsection shall, under
20 regulations prescribed by the Department, be adjusted by
21 any amounts included therein which were properly paid,
22 credited, or required to be distributed, or permanently set
23 aside for charitable purposes pursuant to Internal Revenue
24 Code Section 642(c) during the taxable year.

25 (d) Partnerships.

26 (1) In general. In the case of a partnership, base
27 income means an amount equal to the taxpayer's taxable
28 income for the taxable year as modified by paragraph (2).

29 (2) Modifications. The taxable income referred to in
30 paragraph (1) shall be modified by adding thereto the sum
31 of the following amounts:

32 (A) An amount equal to all amounts paid or accrued
33 to the taxpayer as interest or dividends during the

1 taxable year to the extent excluded from gross income
2 in the computation of taxable income;

3 (B) An amount equal to the amount of tax imposed by
4 this Act to the extent deducted from gross income for
5 the taxable year;

6 (C) The amount of deductions allowed to the
7 partnership pursuant to Section 707 (c) of the Internal
8 Revenue Code in calculating its taxable income;

9 (D) An amount equal to the amount of the capital
10 gain deduction allowable under the Internal Revenue
11 Code, to the extent deducted from gross income in the
12 computation of taxable income;

13 (D-5) For taxable years 2001 and thereafter, an
14 amount equal to the bonus depreciation deduction (30%
15 of the adjusted basis of the qualified property) taken
16 on the taxpayer's federal income tax return for the
17 taxable year under subsection (k) of Section 168 of the
18 Internal Revenue Code;

19 (D-6) If the taxpayer reports a capital gain or
20 loss on the taxpayer's federal income tax return for
21 the taxable year based on a sale or transfer of
22 property for which the taxpayer was required in any
23 taxable year to make an addition modification under
24 subparagraph (D-5), then an amount equal to the
25 aggregate amount of the deductions taken in all taxable
26 years under subparagraph (O) with respect to that
27 property.

28 The taxpayer is required to make the addition
29 modification under this subparagraph only once with
30 respect to any one piece of property;

31 (D-7) For taxable years ending on or after December
32 31, 2004, an amount equal to the amount otherwise
33 allowed as a deduction in computing base income for
34 interest paid, accrued, or incurred, directly or

1 indirectly, to a foreign person who would be a member
2 of the same unitary business group but for the fact the
3 foreign person's business activity outside the United
4 States is 80% or more of the foreign person's total
5 business activity. The addition modification required
6 by this subparagraph shall be reduced to the extent
7 that dividends were included in base income of the
8 unitary group for the same taxable year and received by
9 the taxpayer or by a member of the taxpayer's unitary
10 business group (including amounts included in gross
11 income pursuant to Sections 951 through 964 of the
12 Internal Revenue Code and amounts included in gross
13 income under Section 78 of the Internal Revenue Code)
14 with respect to the stock of the same person to whom
15 the interest was paid, accrued, or incurred.

16 This paragraph shall not apply to the following:

17 (i) an item of interest paid, accrued, or
18 incurred, directly or indirectly, to a foreign
19 person who is subject in a foreign country or
20 state, other than a state which requires mandatory
21 unitary reporting, to a tax on or measured by net
22 income with respect to such interest; or

23 (ii) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a foreign
25 person if the taxpayer can establish, based on a
26 preponderance of the evidence, both of the
27 following:

28 (a) the foreign person, during the same
29 taxable year, paid, accrued, or incurred, the
30 interest to a person that is not a related
31 member, and

32 (b) the transaction giving rise to the
33 interest expense between the taxpayer and the
34 foreign person did not have as a principal

1 purpose the avoidance of Illinois income tax,
2 and is paid pursuant to a contract or agreement
3 that reflects an arm's-length interest rate
4 and terms; or

5 (iii) the taxpayer can establish, based on
6 clear and convincing evidence, that the interest
7 paid, accrued, or incurred relates to a contract or
8 agreement entered into at arm's-length rates and
9 terms and the principal purpose for the payment is
10 not federal or Illinois tax avoidance; or

11 (iv) an item of interest paid, accrued, or
12 incurred, directly or indirectly, to a foreign
13 person if the taxpayer establishes by clear and
14 convincing evidence that the adjustments are
15 unreasonable; or if the taxpayer and the Director
16 agree in writing to the application or use of an
17 alternative method of apportionment under Section
18 304(f).

19 Nothing in this subsection shall preclude the
20 Director from making any other adjustment
21 otherwise allowed under Section 404 of this Act for
22 any tax year beginning after the effective date of
23 this amendment provided such adjustment is made
24 pursuant to regulation adopted by the Department
25 and such regulations provide methods and standards
26 by which the Department will utilize its authority
27 under Section 404 of this Act; and

28 (D-8) For taxable years ending on or after December
29 31, 2004, an amount equal to the amount of intangible
30 expenses and costs otherwise allowed as a deduction in
31 computing base income, and that were paid, accrued, or
32 incurred, directly or indirectly, to a foreign person
33 who would be a member of the same unitary business
34 group but for the fact that the foreign person's

1 business activity outside the United States is 80% or
2 more of that person's total business activity. The
3 addition modification required by this subparagraph
4 shall be reduced to the extent that dividends were
5 included in base income of the unitary group for the
6 same taxable year and received by the taxpayer or by a
7 member of the taxpayer's unitary business group
8 (including amounts included in gross income pursuant
9 to Sections 951 through 964 of the Internal Revenue
10 Code and amounts included in gross income under Section
11 78 of the Internal Revenue Code) with respect to the
12 stock of the same person to whom the intangible
13 expenses and costs were directly or indirectly paid,
14 incurred or accrued. The preceding sentence shall not
15 apply to the extent that the same dividends caused a
16 reduction to the addition modification required under
17 Section 203(d)(2)(D-7) of this Act. As used in this
18 subparagraph, the term "intangible expenses and costs"
19 includes (1) expenses, losses, and costs for, or
20 related to, the direct or indirect acquisition, use,
21 maintenance or management, ownership, sale, exchange,
22 or any other disposition of intangible property; (2)
23 losses incurred, directly or indirectly, from
24 factoring transactions or discounting transactions;
25 (3) royalty, patent, technical, and copyright fees;
26 (4) licensing fees; and (5) other similar expenses and
27 costs. For purposes of this subparagraph, "intangible
28 property" includes patents, patent applications, trade
29 names, trademarks, service marks, copyrights, mask
30 works, trade secrets, and similar types of intangible
31 assets;

32 This paragraph shall not apply to the following:

33 (i) any item of intangible expenses or costs
34 paid, accrued, or incurred, directly or

1 indirectly, from a transaction with a foreign
2 person who is subject in a foreign country or
3 state, other than a state which requires mandatory
4 unitary reporting, to a tax on or measured by net
5 income with respect to such item; or

6 (ii) any item of intangible expense or cost
7 paid, accrued, or incurred, directly or
8 indirectly, if the taxpayer can establish, based
9 on a preponderance of the evidence, both of the
10 following:

11 (a) the foreign person during the same
12 taxable year paid, accrued, or incurred, the
13 intangible expense or cost to a person that is
14 not a related member, and

15 (b) the transaction giving rise to the
16 intangible expense or cost between the
17 taxpayer and the foreign person did not have as
18 a principal purpose the avoidance of Illinois
19 income tax, and is paid pursuant to a contract
20 or agreement that reflects arm's-length terms;
21 or

22 (iii) any item of intangible expense or cost
23 paid, accrued, or incurred, directly or
24 indirectly, from a transaction with a foreign
25 person if the taxpayer establishes by clear and
26 convincing evidence, that the adjustments are
27 unreasonable; or if the taxpayer and the Director
28 agree in writing to the application or use of an
29 alternative method of apportionment under Section
30 304(f);

31 Nothing in this subsection shall preclude the
32 Director from making any other adjustment
33 otherwise allowed under Section 404 of this Act for
34 any tax year beginning after the effective date of

1 this amendment provided such adjustment is made
2 pursuant to regulation adopted by the Department
3 and such regulations provide methods and standards
4 by which the Department will utilize its authority
5 under Section 404 of this Act;

6 and by deducting from the total so obtained the following
7 amounts:

8 (E) The valuation limitation amount;

9 (F) An amount equal to the amount of any tax
10 imposed by this Act which was refunded to the taxpayer
11 and included in such total for the taxable year;

12 (G) An amount equal to all amounts included in
13 taxable income as modified by subparagraphs (A), (B),
14 (C) and (D) which are exempt from taxation by this
15 State either by reason of its statutes or Constitution
16 or by reason of the Constitution, treaties or statutes
17 of the United States; provided that, in the case of any
18 statute of this State that exempts income derived from
19 bonds or other obligations from the tax imposed under
20 this Act, the amount exempted shall be the interest net
21 of bond premium amortization;

22 (H) Any income of the partnership which
23 constitutes personal service income as defined in
24 Section 1348 (b) (1) of the Internal Revenue Code (as
25 in effect December 31, 1981) or a reasonable allowance
26 for compensation paid or accrued for services rendered
27 by partners to the partnership, whichever is greater;

28 (I) An amount equal to all amounts of income
29 distributable to an entity subject to the Personal
30 Property Tax Replacement Income Tax imposed by
31 subsections (c) and (d) of Section 201 of this Act
32 including amounts distributable to organizations
33 exempt from federal income tax by reason of Section
34 501(a) of the Internal Revenue Code;

1 (J) With the exception of any amounts subtracted
2 under subparagraph (G), an amount equal to the sum of
3 all amounts disallowed as deductions by (i) Sections
4 171(a) (2), and 265(2) of the Internal Revenue Code of
5 1954, as now or hereafter amended, and all amounts of
6 expenses allocable to interest and disallowed as
7 deductions by Section 265(1) of the Internal Revenue
8 Code, as now or hereafter amended; and (ii) for taxable
9 years ending on or after August 13, 1999, Sections
10 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
11 Internal Revenue Code; the provisions of this
12 subparagraph are exempt from the provisions of Section
13 250;

14 (K) An amount equal to those dividends included in
15 such total which were paid by a corporation which
16 conducts business operations in an Enterprise Zone or
17 zones created under the Illinois Enterprise Zone Act,
18 enacted by the 82nd General Assembly, and conducts
19 substantially all of its operations in an Enterprise
20 Zone or Zones;

21 (L) An amount equal to any contribution made to a
22 job training project established pursuant to the Real
23 Property Tax Increment Allocation Redevelopment Act;

24 (M) An amount equal to those dividends included in
25 such total that were paid by a corporation that
26 conducts business operations in a federally designated
27 Foreign Trade Zone or Sub-Zone and that is designated a
28 High Impact Business located in Illinois; provided
29 that dividends eligible for the deduction provided in
30 subparagraph (K) of paragraph (2) of this subsection
31 shall not be eligible for the deduction provided under
32 this subparagraph (M);

33 (N) An amount equal to the amount of the deduction
34 used to compute the federal income tax credit for

1 restoration of substantial amounts held under claim of
2 right for the taxable year pursuant to Section 1341 of
3 the Internal Revenue Code of 1986;

4 (O) For taxable years 2001 and thereafter, for the
5 taxable year in which the bonus depreciation deduction
6 (30% of the adjusted basis of the qualified property)
7 is taken on the taxpayer's federal income tax return
8 under subsection (k) of Section 168 of the Internal
9 Revenue Code and for each applicable taxable year
10 thereafter, an amount equal to "x", where:

11 (1) "y" equals the amount of the depreciation
12 deduction taken for the taxable year on the
13 taxpayer's federal income tax return on property
14 for which the bonus depreciation deduction (30% of
15 the adjusted basis of the qualified property) was
16 taken in any year under subsection (k) of Section
17 168 of the Internal Revenue Code, but not including
18 the bonus depreciation deduction; and

19 (2) "x" equals "y" multiplied by 30 and then
20 divided by 70 (or "y" multiplied by 0.429).

21 The aggregate amount deducted under this
22 subparagraph in all taxable years for any one piece of
23 property may not exceed the amount of the bonus
24 depreciation deduction (30% of the adjusted basis of
25 the qualified property) taken on that property on the
26 taxpayer's federal income tax return under subsection
27 (k) of Section 168 of the Internal Revenue Code;

28 (P) If the taxpayer reports a capital gain or loss
29 on the taxpayer's federal income tax return for the
30 taxable year based on a sale or transfer of property
31 for which the taxpayer was required in any taxable year
32 to make an addition modification under subparagraph
33 (D-5), then an amount equal to that addition
34 modification.

1 The taxpayer is allowed to take the deduction under
2 this subparagraph only once with respect to any one
3 piece of property;

4 (Q) The amount of (i) any interest income (net of
5 the deductions allocable thereto) taken into account
6 for the taxable year with respect to a transaction with
7 a taxpayer that is required to make an addition
8 modification with respect to such transaction under
9 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
10 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
11 the amount of such addition modification and (ii) any
12 income from intangible property (net of the deductions
13 allocable thereto) taken into account for the taxable
14 year with respect to a transaction with a taxpayer that
15 is required to make an addition modification with
16 respect to such transaction under Section
17 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
18 203(d)(2)(D-8), but not to exceed the amount of such
19 addition modification;

20 (R) An amount equal to the interest income taken
21 into account for the taxable year (net of the
22 deductions allocable thereto) with respect to
23 transactions with a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact that the foreign person's business activity
26 outside the United States is 80% or more of that
27 person's total business activity, but not to exceed the
28 addition modification required to be made for the same
29 taxable year under Section 203(d)(2)(D-7) for interest
30 paid, accrued, or incurred, directly or indirectly, to
31 the same foreign person; and

32 (S) An amount equal to the income from intangible
33 property taken into account for the taxable year (net
34 of the deductions allocable thereto) with respect to

1 transactions with a foreign person who would be a
2 member of the taxpayer's unitary business group but for
3 the fact that the foreign person's business activity
4 outside the United States is 80% or more of that
5 person's total business activity, but not to exceed the
6 addition modification required to be made for the same
7 taxable year under Section 203(d)(2)(D-8) for
8 intangible expenses and costs paid, accrued, or
9 incurred, directly or indirectly, to the same foreign
10 person.

11 (e) Gross income; adjusted gross income; taxable income.

12 (1) In general. Subject to the provisions of paragraph
13 (2) and subsection (b) (3), for purposes of this Section
14 and Section 803(e), a taxpayer's gross income, adjusted
15 gross income, or taxable income for the taxable year shall
16 mean the amount of gross income, adjusted gross income or
17 taxable income properly reportable for federal income tax
18 purposes for the taxable year under the provisions of the
19 Internal Revenue Code. Taxable income may be less than
20 zero. However, for taxable years ending on or after
21 December 31, 1986, net operating loss carryforwards from
22 taxable years ending prior to December 31, 1986, may not
23 exceed the sum of federal taxable income for the taxable
24 year before net operating loss deduction, plus the excess
25 of addition modifications over subtraction modifications
26 for the taxable year. For taxable years ending prior to
27 December 31, 1986, taxable income may never be an amount in
28 excess of the net operating loss for the taxable year as
29 defined in subsections (c) and (d) of Section 172 of the
30 Internal Revenue Code, provided that when taxable income of
31 a corporation (other than a Subchapter S corporation),
32 trust, or estate is less than zero and addition
33 modifications, other than those provided by subparagraph

1 (E) of paragraph (2) of subsection (b) for corporations or
2 subparagraph (E) of paragraph (2) of subsection (c) for
3 trusts and estates, exceed subtraction modifications, an
4 addition modification must be made under those
5 subparagraphs for any other taxable year to which the
6 taxable income less than zero (net operating loss) is
7 applied under Section 172 of the Internal Revenue Code or
8 under subparagraph (E) of paragraph (2) of this subsection
9 (e) applied in conjunction with Section 172 of the Internal
10 Revenue Code.

11 (2) Special rule. For purposes of paragraph (1) of this
12 subsection, the taxable income properly reportable for
13 federal income tax purposes shall mean:

14 (A) Certain life insurance companies. In the case
15 of a life insurance company subject to the tax imposed
16 by Section 801 of the Internal Revenue Code, life
17 insurance company taxable income, plus the amount of
18 distribution from pre-1984 policyholder surplus
19 accounts as calculated under Section 815a of the
20 Internal Revenue Code;

21 (B) Certain other insurance companies. In the case
22 of mutual insurance companies subject to the tax
23 imposed by Section 831 of the Internal Revenue Code,
24 insurance company taxable income;

25 (C) Regulated investment companies. In the case of
26 a regulated investment company subject to the tax
27 imposed by Section 852 of the Internal Revenue Code,
28 investment company taxable income;

29 (D) Real estate investment trusts. In the case of a
30 real estate investment trust subject to the tax imposed
31 by Section 857 of the Internal Revenue Code, real
32 estate investment trust taxable income;

33 (E) Consolidated corporations. In the case of a
34 corporation which is a member of an affiliated group of

1 corporations filing a consolidated income tax return
2 for the taxable year for federal income tax purposes,
3 taxable income determined as if such corporation had
4 filed a separate return for federal income tax purposes
5 for the taxable year and each preceding taxable year
6 for which it was a member of an affiliated group. For
7 purposes of this subparagraph, the taxpayer's separate
8 taxable income shall be determined as if the election
9 provided by Section 243(b) (2) of the Internal Revenue
10 Code had been in effect for all such years;

11 (F) Cooperatives. In the case of a cooperative
12 corporation or association, the taxable income of such
13 organization determined in accordance with the
14 provisions of Section 1381 through 1388 of the Internal
15 Revenue Code;

16 (G) Subchapter S corporations. In the case of: (i)
17 a Subchapter S corporation for which there is in effect
18 an election for the taxable year under Section 1362 of
19 the Internal Revenue Code, the taxable income of such
20 corporation determined in accordance with Section
21 1363(b) of the Internal Revenue Code, except that
22 taxable income shall take into account those items
23 which are required by Section 1363(b)(1) of the
24 Internal Revenue Code to be separately stated; and (ii)
25 a Subchapter S corporation for which there is in effect
26 a federal election to opt out of the provisions of the
27 Subchapter S Revision Act of 1982 and have applied
28 instead the prior federal Subchapter S rules as in
29 effect on July 1, 1982, the taxable income of such
30 corporation determined in accordance with the federal
31 Subchapter S rules as in effect on July 1, 1982; and

32 (H) Partnerships. In the case of a partnership,
33 taxable income determined in accordance with Section
34 703 of the Internal Revenue Code, except that taxable

1 income shall take into account those items which are
2 required by Section 703(a)(1) to be separately stated
3 but which would be taken into account by an individual
4 in calculating his taxable income.

5 (3) Recapture of business expenses on disposition of
6 asset or business. Notwithstanding any other law to the
7 contrary, if in prior years income from an asset or
8 business has been classified as business income and in a
9 later year is demonstrated to be non-business income, then
10 all expenses, without limitation, deducted in such later
11 year and in the 2 immediately preceding taxable years
12 related to that asset or business that generated the
13 non-business income shall be added back and recaptured as
14 business income in the year of the disposition of the asset
15 or business. Such amount shall be apportioned to Illinois
16 using the greater of the apportionment fraction computed
17 for the business under Section 304 of this Act for the
18 taxable year or the average of the apportionment fractions
19 computed for the business under Section 304 of this Act for
20 the taxable year and for the 2 immediately preceding
21 taxable years.

22 (f) Valuation limitation amount.

23 (1) In general. The valuation limitation amount
24 referred to in subsections (a) (2) (G), (c) (2) (I) and
25 (d) (2) (E) is an amount equal to:

26 (A) The sum of the pre-August 1, 1969 appreciation
27 amounts (to the extent consisting of gain reportable
28 under the provisions of Section 1245 or 1250 of the
29 Internal Revenue Code) for all property in respect of
30 which such gain was reported for the taxable year; plus

31 (B) The lesser of (i) the sum of the pre-August 1,
32 1969 appreciation amounts (to the extent consisting of
33 capital gain) for all property in respect of which such
34 gain was reported for federal income tax purposes for

1 the taxable year, or (ii) the net capital gain for the
2 taxable year, reduced in either case by any amount of
3 such gain included in the amount determined under
4 subsection (a) (2) (F) or (c) (2) (H).

5 (2) Pre-August 1, 1969 appreciation amount.

6 (A) If the fair market value of property referred
7 to in paragraph (1) was readily ascertainable on August
8 1, 1969, the pre-August 1, 1969 appreciation amount for
9 such property is the lesser of (i) the excess of such
10 fair market value over the taxpayer's basis (for
11 determining gain) for such property on that date
12 (determined under the Internal Revenue Code as in
13 effect on that date), or (ii) the total gain realized
14 and reportable for federal income tax purposes in
15 respect of the sale, exchange or other disposition of
16 such property.

17 (B) If the fair market value of property referred
18 to in paragraph (1) was not readily ascertainable on
19 August 1, 1969, the pre-August 1, 1969 appreciation
20 amount for such property is that amount which bears the
21 same ratio to the total gain reported in respect of the
22 property for federal income tax purposes for the
23 taxable year, as the number of full calendar months in
24 that part of the taxpayer's holding period for the
25 property ending July 31, 1969 bears to the number of
26 full calendar months in the taxpayer's entire holding
27 period for the property.

28 (C) The Department shall prescribe such
29 regulations as may be necessary to carry out the
30 purposes of this paragraph.

31 (g) Double deductions. Unless specifically provided
32 otherwise, nothing in this Section shall permit the same item
33 to be deducted more than once.

1 (h) Legislative intention. Except as expressly provided by
2 this Section there shall be no modifications or limitations on
3 the amounts of income, gain, loss or deduction taken into
4 account in determining gross income, adjusted gross income or
5 taxable income for federal income tax purposes for the taxable
6 year, or in the amount of such items entering into the
7 computation of base income and net income under this Act for
8 such taxable year, whether in respect of property values as of
9 August 1, 1969 or otherwise.

10 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
11 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
12 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
13 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

14 (35 ILCS 5/247 new)

15 Sec. 247. Family Tax Credit.

16 (a) For taxable years beginning after January 1, 2005, each
17 taxpayer who is a natural person filing single or is a married
18 person filing separately that reports total annual income of
19 \$23,500 or less (the "eligibility cap for single and married
20 filing separately"), or, is a married couple filing jointly or
21 a natural person filing as head of household that reports total
22 annual income of \$47,000 or less (the "eligibility cap for
23 married filing jointly and head of household") , is entitled to
24 a refundable tax credit known as the "Family Tax Credit" in
25 those amounts identified in subsection (b) of this Section. The
26 Family Tax Credit may be claimed only upon proper filing of an
27 Illinois State income tax return by an eligible taxpayer. The
28 eligibility caps shall increase for each tax year beginning
29 after December 31, 2005, by an amount equal to the percentage
30 increase, if any, in the Consumer Price Index ("CPI") published
31 by the U.S. Bureau of Labor Statistics for the immediately
32 preceding tax year, multiplied by the eligibility caps for that

1 immediately preceding tax year.

2 (b) The amount of the credit is determined as follows:

3 (1) for a single taxpayer with a total annual income
4 of:

5 (A) less than \$15,000, the credit is \$75;

6 (B) \$15,000 or more but less than \$16,999, the
7 credit is \$100;

8 (C) \$16,999 or more but less than \$17,000, the
9 credit is \$200;

10 (D) \$17,000 or more but less than \$19,000, the
11 credit is \$300; or

12 (E) \$19,000 or more but less than \$23,501, the
13 credit is \$400;

14 (2) for married taxpayers filing separately with a
15 total annual income of:

16 (A) less than \$10,000, the credit is \$75;

17 (B) \$10,000 or more but less than \$12,500, the
18 credit is \$100;

19 (C) \$12,500 or more but less than \$15,000, the
20 credit is \$200;

21 (D) \$15,000 or more but less than \$18,000, the
22 credit is \$300; or

23 (E) \$18,000 or more but less than \$23,501, the
24 credit is \$400;

25 (3) for married taxpayers filing jointly with a total
26 annual income of:

27 (A) less than \$20,000, the credit is \$75;

28 (B) \$20,000 or more but less than \$25,000, the
29 credit is \$100;

30 (C) \$25,000 or more but less than \$30,000, the
31 credit is \$200;

32 (D) \$30,000 or more but less than \$36,000, the
33 credit is \$300; or

34 (E) \$36,000 or more but less than \$47,001, the

1 credit is \$400; and

2 (4) for a taxpayer who is a head of household with a
3 total annual income of:

4 (A) less than \$20,000, the credit is \$75;

5 (B) \$20,000 or more but less than \$25,000, the
6 credit is \$100;

7 (C) \$25,000 or more but less than \$30,000, the
8 credit is \$200;

9 (D) \$30,000 or more but less than \$36,000, the
10 credit is \$300; or

11 (E) \$36,000 or more but less than \$47,001, the
12 credit is \$400.

13 The dollar ranges of total annual income identified in each
14 filing status and the credit per dependent amount associated
15 therewith, shall increase in each tax year beginning after
16 December 31, 2005, by an amount equal to the applicable
17 percentage increase, if any, in the CPI for the immediately
18 preceding tax year multiplied by the applicable total annual
19 income range amounts and the credit per dependent amounts
20 associated therewith. The Department of Revenue shall update
21 the total annual income range amounts and associated credit
22 amounts for the Family Tax Credit annually and distribute the
23 updated table with the Illinois personal income tax returns.

24 (c) If the amount of the Family Tax Credit exceeds the
25 income tax liability of an eligible taxpayer, the State shall
26 refund to the taxpayer the difference between the Family Tax
27 Credit and such eligible taxpayer's income tax liability.

28 (d) This Section is exempt from the provisions of Section
29 250 of this Act.

30 Section 15. The Use Tax Act is amended by changing Section
31 2 as follows:

32 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

1 Sec. 2. "Use" means the exercise by any person of any right
2 or power over tangible personal property incident to the
3 ownership of that property, except that it does not include the
4 sale of such property in any form as tangible personal property
5 in the regular course of business to the extent that such
6 property is not first subjected to a use for which it was
7 purchased, and does not include the use of such property by its
8 owner for demonstration purposes: Provided that the property
9 purchased is deemed to be purchased for the purpose of resale,
10 despite first being used, to the extent to which it is resold
11 as an ingredient of an intentionally produced product or
12 by-product of manufacturing. "Use" does not mean the
13 demonstration use or interim use of tangible personal property
14 by a retailer before he sells that tangible personal property.
15 For watercraft or aircraft, if the period of demonstration use
16 or interim use by the retailer exceeds 18 months, the retailer
17 shall pay on the retailers' original cost price the tax imposed
18 by this Act, and no credit for that tax is permitted if the
19 watercraft or aircraft is subsequently sold by the retailer.
20 "Use" does not mean the physical incorporation of tangible
21 personal property, to the extent not first subjected to a use
22 for which it was purchased, as an ingredient or constituent,
23 into other tangible personal property (a) which is sold in the
24 regular course of business or (b) which the person
25 incorporating such ingredient or constituent therein has
26 undertaken at the time of such purchase to cause to be
27 transported in interstate commerce to destinations outside the
28 State of Illinois: Provided that the property purchased is
29 deemed to be purchased for the purpose of resale, despite first
30 being used, to the extent to which it is resold as an
31 ingredient of an intentionally produced product or by-product
32 of manufacturing.

33 "Watercraft" means a Class 2, Class 3, or Class 4
34 watercraft as defined in Section 3-2 of the Boat Registration

1 and Safety Act, a personal watercraft, or any boat equipped
2 with an inboard motor.

3 "Purchase at retail" means the acquisition of the ownership
4 of or title to tangible personal property through a sale at
5 retail.

6 "Purchaser" means anyone who, through a sale at retail,
7 acquires the ownership of tangible personal property for a
8 valuable consideration.

9 "Sale at retail" means any transfer of the ownership of or
10 title to tangible personal property to a purchaser, for the
11 purpose of use, and not for the purpose of resale in any form
12 as tangible personal property to the extent not first subjected
13 to a use for which it was purchased, for a valuable
14 consideration: Provided that the property purchased is deemed
15 to be purchased for the purpose of resale, despite first being
16 used, to the extent to which it is resold as an ingredient of
17 an intentionally produced product or by-product of
18 manufacturing. For this purpose, slag produced as an incident
19 to manufacturing pig iron or steel and sold is considered to be
20 an intentionally produced by-product of manufacturing. "Sale
21 at retail" includes any such transfer made for resale unless
22 made in compliance with Section 2c of the Retailers' Occupation
23 Tax Act, as incorporated by reference into Section 12 of this
24 Act. Transactions whereby the possession of the property is
25 transferred but the seller retains the title as security for
26 payment of the selling price are sales.

27 "Sale at retail" shall also be construed to include any
28 Illinois florist's sales transaction in which the purchase
29 order is received in Illinois by a florist and the sale is for
30 use or consumption, but the Illinois florist has a florist in
31 another state deliver the property to the purchaser or the
32 purchaser's donee in such other state.

33 Nonreusable tangible personal property that is used by
34 persons engaged in the business of operating a restaurant,

1 cafeteria, or drive-in is a sale for resale when it is
2 transferred to customers in the ordinary course of business as
3 part of the sale of food or beverages and is used to deliver,
4 package, or consume food or beverages, regardless of where
5 consumption of the food or beverages occurs. Examples of those
6 items include, but are not limited to nonreusable, paper and
7 plastic cups, plates, baskets, boxes, sleeves, buckets or other
8 containers, utensils, straws, placemats, napkins, doggie bags,
9 and wrapping or packaging materials that are transferred to
10 customers as part of the sale of food or beverages in the
11 ordinary course of business.

12 ~~The purchase, employment and transfer of such tangible~~
13 ~~personal property as newsprint and ink for the primary purpose~~
14 ~~of conveying news (with or without other information) is not a~~
15 ~~purchase, use or sale of tangible personal property.~~

16 "Selling price" means the consideration for a sale valued
17 in money whether received in money or otherwise, including
18 cash, credits, property other than as hereinafter provided, and
19 services, but not including the value of or credit given for
20 traded-in tangible personal property where the item that is
21 traded-in is of like kind and character as that which is being
22 sold, and shall be determined without any deduction on account
23 of the cost of the property sold, the cost of materials used,
24 labor or service cost or any other expense whatsoever, but does
25 not include interest or finance charges which appear as
26 separate items on the bill of sale or sales contract nor
27 charges that are added to prices by sellers on account of the
28 seller's tax liability under the "Retailers' Occupation Tax
29 Act", or on account of the seller's duty to collect, from the
30 purchaser, the tax that is imposed by this Act, or on account
31 of the seller's tax liability under Section 8-11-1 of the
32 Illinois Municipal Code, as heretofore and hereafter amended,
33 or on account of the seller's tax liability under the "County
34 Retailers' Occupation Tax Act". Effective December 1, 1985,

1 "selling price" shall include charges that are added to prices
2 by sellers on account of the seller's tax liability under the
3 Cigarette Tax Act, on account of the seller's duty to collect,
4 from the purchaser, the tax imposed under the Cigarette Use Tax
5 Act, and on account of the seller's duty to collect, from the
6 purchaser, any cigarette tax imposed by a home rule unit.

7 The phrase "like kind and character" shall be liberally
8 construed (including but not limited to any form of motor
9 vehicle for any form of motor vehicle, or any kind of farm or
10 agricultural implement for any other kind of farm or
11 agricultural implement), while not including a kind of item
12 which, if sold at retail by that retailer, would be exempt from
13 retailers' occupation tax and use tax as an isolated or
14 occasional sale.

15 "Department" means the Department of Revenue.

16 "Person" means any natural individual, firm, partnership,
17 association, joint stock company, joint adventure, public or
18 private corporation, limited liability company, or a receiver,
19 executor, trustee, guardian or other representative appointed
20 by order of any court.

21 "Retailer" means and includes every person engaged in the
22 business of making sales at retail as defined in this Section.

23 A person who holds himself or herself out as being engaged
24 (or who habitually engages) in selling tangible personal
25 property at retail is a retailer hereunder with respect to such
26 sales (and not primarily in a service occupation)
27 notwithstanding the fact that such person designs and produces
28 such tangible personal property on special order for the
29 purchaser and in such a way as to render the property of value
30 only to such purchaser, if such tangible personal property so
31 produced on special order serves substantially the same
32 function as stock or standard items of tangible personal
33 property that are sold at retail.

34 A person whose activities are organized and conducted

1 primarily as a not-for-profit service enterprise, and who
2 engages in selling tangible personal property at retail
3 (whether to the public or merely to members and their guests)
4 is a retailer with respect to such transactions, excepting only
5 a person organized and operated exclusively for charitable,
6 religious or educational purposes either (1), to the extent of
7 sales by such person to its members, students, patients or
8 inmates of tangible personal property to be used primarily for
9 the purposes of such person, or (2), to the extent of sales by
10 such person of tangible personal property which is not sold or
11 offered for sale by persons organized for profit. The selling
12 of school books and school supplies by schools at retail to
13 students is not "primarily for the purposes of" the school
14 which does such selling. This paragraph does not apply to nor
15 subject to taxation occasional dinners, social or similar
16 activities of a person organized and operated exclusively for
17 charitable, religious or educational purposes, whether or not
18 such activities are open to the public.

19 A person who is the recipient of a grant or contract under
20 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
21 serves meals to participants in the federal Nutrition Program
22 for the Elderly in return for contributions established in
23 amount by the individual participant pursuant to a schedule of
24 suggested fees as provided for in the federal Act is not a
25 retailer under this Act with respect to such transactions.

26 Persons who engage in the business of transferring tangible
27 personal property upon the redemption of trading stamps are
28 retailers hereunder when engaged in such business.

29 The isolated or occasional sale of tangible personal
30 property at retail by a person who does not hold himself out as
31 being engaged (or who does not habitually engage) in selling
32 such tangible personal property at retail or a sale through a
33 bulk vending machine does not make such person a retailer
34 hereunder. However, any person who is engaged in a business

1 which is not subject to the tax imposed by the "Retailers'
2 Occupation Tax Act" because of involving the sale of or a
3 contract to sell real estate or a construction contract to
4 improve real estate, but who, in the course of conducting such
5 business, transfers tangible personal property to users or
6 consumers in the finished form in which it was purchased, and
7 which does not become real estate, under any provision of a
8 construction contract or real estate sale or real estate sales
9 agreement entered into with some other person arising out of or
10 because of such nontaxable business, is a retailer to the
11 extent of the value of the tangible personal property so
12 transferred. If, in such transaction, a separate charge is made
13 for the tangible personal property so transferred, the value of
14 such property, for the purposes of this Act, is the amount so
15 separately charged, but not less than the cost of such property
16 to the transferor; if no separate charge is made, the value of
17 such property, for the purposes of this Act, is the cost to the
18 transferor of such tangible personal property.

19 "Retailer maintaining a place of business in this State",
20 or any like term, means and includes any of the following
21 retailers:

22 1. A retailer having or maintaining within this State,
23 directly or by a subsidiary, an office, distribution house,
24 sales house, warehouse or other place of business, or any
25 agent or other representative operating within this State
26 under the authority of the retailer or its subsidiary,
27 irrespective of whether such place of business or agent or
28 other representative is located here permanently or
29 temporarily, or whether such retailer or subsidiary is
30 licensed to do business in this State. However, the
31 ownership of property that is located at the premises of a
32 printer with which the retailer has contracted for printing
33 and that consists of the final printed product, property
34 that becomes a part of the final printed product, or copy

1 from which the printed product is produced shall not result
2 in the retailer being deemed to have or maintain an office,
3 distribution house, sales house, warehouse, or other place
4 of business within this State.

5 2. A retailer soliciting orders for tangible personal
6 property by means of a telecommunication or television
7 shopping system (which utilizes toll free numbers) which is
8 intended by the retailer to be broadcast by cable
9 television or other means of broadcasting, to consumers
10 located in this State.

11 3. A retailer, pursuant to a contract with a
12 broadcaster or publisher located in this State, soliciting
13 orders for tangible personal property by means of
14 advertising which is disseminated primarily to consumers
15 located in this State and only secondarily to bordering
16 jurisdictions.

17 4. A retailer soliciting orders for tangible personal
18 property by mail if the solicitations are substantial and
19 recurring and if the retailer benefits from any banking,
20 financing, debt collection, telecommunication, or
21 marketing activities occurring in this State or benefits
22 from the location in this State of authorized installation,
23 servicing, or repair facilities.

24 5. A retailer that is owned or controlled by the same
25 interests that own or control any retailer engaging in
26 business in the same or similar line of business in this
27 State.

28 6. A retailer having a franchisee or licensee operating
29 under its trade name if the franchisee or licensee is
30 required to collect the tax under this Section.

31 7. A retailer, pursuant to a contract with a cable
32 television operator located in this State, soliciting
33 orders for tangible personal property by means of
34 advertising which is transmitted or distributed over a

1 cable television system in this State.

2 8. A retailer engaging in activities in Illinois, which
3 activities in the state in which the retail business
4 engaging in such activities is located would constitute
5 maintaining a place of business in that state.

6 "Bulk vending machine" means a vending machine, containing
7 unsorted confections, nuts, toys, or other items designed
8 primarily to be used or played with by children which, when a
9 coin or coins of a denomination not larger than \$0.50 are
10 inserted, are dispensed in equal portions, at random and
11 without selection by the customer.

12 (Source: P.A. 92-213, eff. 1-1-02.)

13 (35 ILCS 105/3-50 rep.) (from Ch. 120, par. 439.3-50)

14 Section 17. The Use Tax Act is amended by repealing Section
15 3-50.

16 Section 20. The Service Use Tax Act is amended by changing
17 Section 2 as follows:

18 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

19 Sec. 2. "Use" means the exercise by any person of any right
20 or power over tangible personal property incident to the
21 ownership of that property, but does not include the sale or
22 use for demonstration by him of that property in any form as
23 tangible personal property in the regular course of business.
24 "Use" does not mean the interim use of tangible personal
25 property nor the physical incorporation of tangible personal
26 property, as an ingredient or constituent, into other tangible
27 personal property, (a) which is sold in the regular course of
28 business or (b) which the person incorporating such ingredient
29 or constituent therein has undertaken at the time of such
30 purchase to cause to be transported in interstate commerce to
31 destinations outside the State of Illinois.

1 "Purchased from a serviceman" means the acquisition of the
2 ownership of, or title to, tangible personal property through a
3 sale of service.

4 "Purchaser" means any person who, through a sale of
5 service, acquires the ownership of, or title to, any tangible
6 personal property.

7 "Cost price" means the consideration paid by the serviceman
8 for a purchase valued in money, whether paid in money or
9 otherwise, including cash, credits and services, and shall be
10 determined without any deduction on account of the supplier's
11 cost of the property sold or on account of any other expense
12 incurred by the supplier. When a serviceman contracts out part
13 or all of the services required in his sale of service, it
14 shall be presumed that the cost price to the serviceman of the
15 property transferred to him or her by his or her subcontractor
16 is equal to 50% of the subcontractor's charges to the
17 serviceman in the absence of proof of the consideration paid by
18 the subcontractor for the purchase of such property.

19 "Selling price" means the consideration for a sale valued
20 in money whether received in money or otherwise, including
21 cash, credits and service, and shall be determined without any
22 deduction on account of the serviceman's cost of the property
23 sold, the cost of materials used, labor or service cost or any
24 other expense whatsoever, but does not include interest or
25 finance charges which appear as separate items on the bill of
26 sale or sales contract nor charges that are added to prices by
27 sellers on account of the seller's duty to collect, from the
28 purchaser, the tax that is imposed by this Act.

29 "Department" means the Department of Revenue.

30 "Person" means any natural individual, firm, partnership,
31 association, joint stock company, joint venture, public or
32 private corporation, limited liability company, and any
33 receiver, executor, trustee, guardian or other representative
34 appointed by order of any court.

1 "Sale of service" means any transaction except:

2 (1) a retail sale of tangible personal property taxable
3 under the Retailers' Occupation Tax Act or under the Use
4 Tax Act.

5 (2) a sale of tangible personal property for the
6 purpose of resale made in compliance with Section 2c of the
7 Retailers' Occupation Tax Act.

8 (3) except as hereinafter provided, a sale or transfer
9 of tangible personal property as an incident to the
10 rendering of service for or by any governmental body, or
11 for or by any corporation, society, association,
12 foundation or institution organized and operated
13 exclusively for charitable, religious or educational
14 purposes or any not-for-profit corporation, society,
15 association, foundation, institution or organization which
16 has no compensated officers or employees and which is
17 organized and operated primarily for the recreation of
18 persons 55 years of age or older. A limited liability
19 company may qualify for the exemption under this paragraph
20 only if the limited liability company is organized and
21 operated exclusively for educational purposes.

22 (4) a sale or transfer of tangible personal property as
23 an incident to the rendering of service for interstate
24 carriers for hire for use as rolling stock moving in
25 interstate commerce or by lessors under a lease of one year
26 or longer, executed or in effect at the time of purchase of
27 personal property, to interstate carriers for hire for use
28 as rolling stock moving in interstate commerce so long as
29 so used by such interstate carriers for hire, and equipment
30 operated by a telecommunications provider, licensed as a
31 common carrier by the Federal Communications Commission,
32 which is permanently installed in or affixed to aircraft
33 moving in interstate commerce.

34 (4a) a sale or transfer of tangible personal property

1 as an incident to the rendering of service for owners,
2 lessors, or shippers of tangible personal property which is
3 utilized by interstate carriers for hire for use as rolling
4 stock moving in interstate commerce so long as so used by
5 interstate carriers for hire, and equipment operated by a
6 telecommunications provider, licensed as a common carrier
7 by the Federal Communications Commission, which is
8 permanently installed in or affixed to aircraft moving in
9 interstate commerce.

10 (4a-5) on and after July 1, 2003 and through June 30,
11 2004, a sale or transfer of a motor vehicle of the second
12 division with a gross vehicle weight in excess of 8,000
13 pounds as an incident to the rendering of service if that
14 motor vehicle is subject to the commercial distribution fee
15 imposed under Section 3-815.1 of the Illinois Vehicle Code.
16 Beginning on July 1, 2004 and through June 30, 2005, the
17 use in this State of motor vehicles of the second division:
18 (i) with a gross vehicle weight rating in excess of 8,000
19 pounds; (ii) that are subject to the commercial
20 distribution fee imposed under Section 3-815.1 of the
21 Illinois Vehicle Code; and (iii) that are primarily used
22 for commercial purposes. Through June 30, 2005, this
23 exemption applies to repair and replacement parts added
24 after the initial purchase of such a motor vehicle if that
25 motor vehicle is used in a manner that would qualify for
26 the rolling stock exemption otherwise provided for in this
27 Act. For purposes of this paragraph, "used for commercial
28 purposes" means the transportation of persons or property
29 in furtherance of any commercial or industrial enterprise
30 whether for-hire or not.

31 (5) a sale or transfer of machinery and equipment used
32 primarily in the process of the manufacturing or
33 assembling, either in an existing, an expanded or a new
34 manufacturing facility, of tangible personal property for

1 wholesale or retail sale or lease, whether such sale or
2 lease is made directly by the manufacturer or by some other
3 person, whether the materials used in the process are owned
4 by the manufacturer or some other person, or whether such
5 sale or lease is made apart from or as an incident to the
6 seller's engaging in a service occupation and the
7 applicable tax is a Service Use Tax or Service Occupation
8 Tax, rather than Use Tax or Retailers' Occupation Tax.

9 (5a) the repairing, reconditioning or remodeling, for
10 a common carrier by rail, of tangible personal property
11 which belongs to such carrier for hire, and as to which
12 such carrier receives the physical possession of the
13 repaired, reconditioned or remodeled item of tangible
14 personal property in Illinois, and which such carrier
15 transports, or shares with another common carrier in the
16 transportation of such property, out of Illinois on a
17 standard uniform bill of lading showing the person who
18 repaired, reconditioned or remodeled the property to a
19 destination outside Illinois, for use outside Illinois.

20 (5b) a sale or transfer of tangible personal property
21 which is produced by the seller thereof on special order in
22 such a way as to have made the applicable tax the Service
23 Occupation Tax or the Service Use Tax, rather than the
24 Retailers' Occupation Tax or the Use Tax, for an interstate
25 carrier by rail which receives the physical possession of
26 such property in Illinois, and which transports such
27 property, or shares with another common carrier in the
28 transportation of such property, out of Illinois on a
29 standard uniform bill of lading showing the seller of the
30 property as the shipper or consignor of such property to a
31 destination outside Illinois, for use outside Illinois.

32 (6) until July 1, 2003, a sale or transfer of
33 distillation machinery and equipment, sold as a unit or kit
34 and assembled or installed by the retailer, which machinery

1 and equipment is certified by the user to be used only for
2 the production of ethyl alcohol that will be used for
3 consumption as motor fuel or as a component of motor fuel
4 for the personal use of such user and not subject to sale
5 or resale.

6 (7) at the election of any serviceman not required to
7 be otherwise registered as a retailer under Section 2a of
8 the Retailers' Occupation Tax Act, made for each fiscal
9 year sales of service in which the aggregate annual cost
10 price of tangible personal property transferred as an
11 incident to the sales of service is less than 35%, or 75%
12 in the case of servicemen transferring prescription drugs
13 or servicemen engaged in graphic arts production, of the
14 aggregate annual total gross receipts from all sales of
15 service. The purchase of such tangible personal property by
16 the serviceman shall be subject to tax under the Retailers'
17 Occupation Tax Act and the Use Tax Act. However, if a
18 primary serviceman who has made the election described in
19 this paragraph subcontracts service work to a secondary
20 serviceman who has also made the election described in this
21 paragraph, the primary serviceman does not incur a Use Tax
22 liability if the secondary serviceman (i) has paid or will
23 pay Use Tax on his or her cost price of any tangible
24 personal property transferred to the primary serviceman
25 and (ii) certifies that fact in writing to the primary
26 serviceman.

27 Tangible personal property transferred incident to the
28 completion of a maintenance agreement is exempt from the tax
29 imposed pursuant to this Act.

30 ~~Exemption (5) also includes machinery and equipment used in~~
31 ~~the general maintenance or repair of such exempt machinery and~~
32 ~~equipment or for in-house manufacture of exempt machinery and~~
33 ~~equipment. For the purposes of exemption (5), each of these~~
34 ~~terms shall have the following meanings: (1) "manufacturing~~

1 ~~process" shall mean the production of any article of tangible~~
2 ~~personal property, whether such article is a finished product~~
3 ~~or an article for use in the process of manufacturing or~~
4 ~~assembling a different article of tangible personal property,~~
5 ~~by procedures commonly regarded as manufacturing, processing,~~
6 ~~fabricating, or refining which changes some existing material~~
7 ~~or materials into a material with a different form, use or~~
8 ~~name. In relation to a recognized integrated business composed~~
9 ~~of a series of operations which collectively constitute~~
10 ~~manufacturing, or individually constitute manufacturing~~
11 ~~operations, the manufacturing process shall be deemed to~~
12 ~~commence with the first operation or stage of production in the~~
13 ~~series, and shall not be deemed to end until the completion of~~
14 ~~the final product in the last operation or stage of production~~
15 ~~in the series; and further, for purposes of exemption (5),~~
16 ~~photoprocessing is deemed to be a manufacturing process of~~
17 ~~tangible personal property for wholesale or retail sale; (2)~~
18 ~~"assembling process" shall mean the production of any article~~
19 ~~of tangible personal property, whether such article is a~~
20 ~~finished product or an article for use in the process of~~
21 ~~manufacturing or assembling a different article of tangible~~
22 ~~personal property, by the combination of existing materials in~~
23 ~~a manner commonly regarded as assembling which results in a~~
24 ~~material of a different form, use or name; (3) "machinery"~~
25 ~~shall mean major mechanical machines or major components of~~
26 ~~such machines contributing to a manufacturing or assembling~~
27 ~~process; and (4) "equipment" shall include any independent~~
28 ~~device or tool separate from any machinery but essential to an~~
29 ~~integrated manufacturing or assembly process; including~~
30 ~~computers used primarily in a manufacturer's computer assisted~~
31 ~~design, computer assisted manufacturing (CAD/CAM) system; or~~
32 ~~any subunit or assembly comprising a component of any machinery~~
33 ~~or auxiliary, adjunct or attachment parts of machinery, such as~~
34 ~~tools, dies, jigs, fixtures, patterns and molds; or any parts~~

1 ~~which require periodic replacement in the course of normal~~
2 ~~operation; but shall not include hand tools. Equipment includes~~
3 ~~chemicals or chemicals acting as catalysts but only if the~~
4 ~~chemicals or chemicals acting as catalysts effect a direct and~~
5 ~~immediate change upon a product being manufactured or assembled~~
6 ~~for wholesale or retail sale or lease. The purchaser of such~~
7 ~~machinery and equipment who has an active resale registration~~
8 ~~number shall furnish such number to the seller at the time of~~
9 ~~purchase. The user of such machinery and equipment and tools~~
10 ~~without an active resale registration number shall prepare a~~
11 ~~certificate of exemption for each transaction stating facts~~
12 ~~establishing the exemption for that transaction, which~~
13 ~~certificate shall be available to the Department for inspection~~
14 ~~or audit. The Department shall prescribe the form of the~~
15 ~~certificate.~~

16 Any informal rulings, opinions or letters issued by the
17 Department in response to an inquiry or request for any opinion
18 from any person regarding the coverage and applicability of
19 exemption (5) to specific devices shall be published,
20 maintained as a public record, and made available for public
21 inspection and copying. If the informal ruling, opinion or
22 letter contains trade secrets or other confidential
23 information, where possible the Department shall delete such
24 information prior to publication. Whenever such informal
25 rulings, opinions, or letters contain any policy of general
26 applicability, the Department shall formulate and adopt such
27 policy as a rule in accordance with the provisions of the
28 Illinois Administrative Procedure Act.

29 On and after July 1, 1987, no entity otherwise eligible
30 under exemption (3) of this Section shall make tax free
31 purchases unless it has an active exemption identification
32 number issued by the Department.

33 ~~The purchase, employment and transfer of such tangible~~
34 ~~personal property as newsprint and ink for the primary purpose~~

1 ~~of conveying news (with or without other information) is not a~~
2 ~~purchase, use or sale of service or of tangible personal~~
3 ~~property within the meaning of this Act.~~

4 "Serviceman" means any person who is engaged in the
5 occupation of making sales of service.

6 "Sale at retail" means "sale at retail" as defined in the
7 Retailers' Occupation Tax Act.

8 "Supplier" means any person who makes sales of tangible
9 personal property to servicemen for the purpose of resale as an
10 incident to a sale of service.

11 "Serviceman maintaining a place of business in this State",
12 or any like term, means and includes any serviceman:

13 1. having or maintaining within this State, directly or
14 by a subsidiary, an office, distribution house, sales
15 house, warehouse or other place of business, or any agent
16 or other representative operating within this State under
17 the authority of the serviceman or its subsidiary,
18 irrespective of whether such place of business or agent or
19 other representative is located here permanently or
20 temporarily, or whether such serviceman or subsidiary is
21 licensed to do business in this State;

22 2. soliciting orders for tangible personal property by
23 means of a telecommunication or television shopping system
24 (which utilizes toll free numbers) which is intended by the
25 retailer to be broadcast by cable television or other means
26 of broadcasting, to consumers located in this State;

27 3. pursuant to a contract with a broadcaster or
28 publisher located in this State, soliciting orders for
29 tangible personal property by means of advertising which is
30 disseminated primarily to consumers located in this State
31 and only secondarily to bordering jurisdictions;

32 4. soliciting orders for tangible personal property by
33 mail if the solicitations are substantial and recurring and
34 if the retailer benefits from any banking, financing, debt

1 collection, telecommunication, or marketing activities
2 occurring in this State or benefits from the location in
3 this State of authorized installation, servicing, or
4 repair facilities;

5 5. being owned or controlled by the same interests
6 which own or control any retailer engaging in business in
7 the same or similar line of business in this State;

8 6. having a franchisee or licensee operating under its
9 trade name if the franchisee or licensee is required to
10 collect the tax under this Section;

11 7. pursuant to a contract with a cable television
12 operator located in this State, soliciting orders for
13 tangible personal property by means of advertising which is
14 transmitted or distributed over a cable television system
15 in this State; or

16 8. engaging in activities in Illinois, which
17 activities in the state in which the supply business
18 engaging in such activities is located would constitute
19 maintaining a place of business in that state.

20 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
21 eff. 6-20-03; 93-1033, eff. 9-3-04.)

22 Section 25. The Service Occupation Tax Act is amended by
23 changing Section 2 as follows:

24 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

25 Sec. 2. "Transfer" means any transfer of the title to
26 property or of the ownership of property whether or not the
27 transferor retains title as security for the payment of amounts
28 due him from the transferee.

29 "Cost Price" means the consideration paid by the serviceman
30 for a purchase valued in money, whether paid in money or
31 otherwise, including cash, credits and services, and shall be
32 determined without any deduction on account of the supplier's

1 cost of the property sold or on account of any other expense
2 incurred by the supplier. When a serviceman contracts out part
3 or all of the services required in his sale of service, it
4 shall be presumed that the cost price to the serviceman of the
5 property transferred to him by his or her subcontractor is
6 equal to 50% of the subcontractor's charges to the serviceman
7 in the absence of proof of the consideration paid by the
8 subcontractor for the purchase of such property.

9 "Department" means the Department of Revenue.

10 "Person" means any natural individual, firm, partnership,
11 association, joint stock company, joint venture, public or
12 private corporation, limited liability company, and any
13 receiver, executor, trustee, guardian or other representative
14 appointed by order of any court.

15 "Sale of Service" means any transaction except:

16 (a) A retail sale of tangible personal property taxable
17 under the Retailers' Occupation Tax Act or under the Use Tax
18 Act.

19 (b) A sale of tangible personal property for the purpose of
20 resale made in compliance with Section 2c of the Retailers'
21 Occupation Tax Act.

22 (c) Except as hereinafter provided, a sale or transfer of
23 tangible personal property as an incident to the rendering of
24 service for or by any governmental body or for or by any
25 corporation, society, association, foundation or institution
26 organized and operated exclusively for charitable, religious
27 or educational purposes or any not-for-profit corporation,
28 society, association, foundation, institution or organization
29 which has no compensated officers or employees and which is
30 organized and operated primarily for the recreation of persons
31 55 years of age or older. A limited liability company may
32 qualify for the exemption under this paragraph only if the
33 limited liability company is organized and operated
34 exclusively for educational purposes.

1 (d) A sale or transfer of tangible personal property as an
2 incident to the rendering of service for interstate carriers
3 for hire for use as rolling stock moving in interstate commerce
4 or lessors under leases of one year or longer, executed or in
5 effect at the time of purchase, to interstate carriers for hire
6 for use as rolling stock moving in interstate commerce, and
7 equipment operated by a telecommunications provider, licensed
8 as a common carrier by the Federal Communications Commission,
9 which is permanently installed in or affixed to aircraft moving
10 in interstate commerce.

11 (d-1) A sale or transfer of tangible personal property as
12 an incident to the rendering of service for owners, lessors or
13 shippers of tangible personal property which is utilized by
14 interstate carriers for hire for use as rolling stock moving in
15 interstate commerce, and equipment operated by a
16 telecommunications provider, licensed as a common carrier by
17 the Federal Communications Commission, which is permanently
18 installed in or affixed to aircraft moving in interstate
19 commerce.

20 (d-1.1) On and after July 1, 2003 and through June 30,
21 2004, a sale or transfer of a motor vehicle of the second
22 division with a gross vehicle weight in excess of 8,000 pounds
23 as an incident to the rendering of service if that motor
24 vehicle is subject to the commercial distribution fee imposed
25 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
26 on July 1, 2004 and through June 30, 2005, the use in this
27 State of motor vehicles of the second division: (i) with a
28 gross vehicle weight rating in excess of 8,000 pounds; (ii)
29 that are subject to the commercial distribution fee imposed
30 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
31 that are primarily used for commercial purposes. Through June
32 30, 2005, this exemption applies to repair and replacement
33 parts added after the initial purchase of such a motor vehicle
34 if that motor vehicle is used in a manner that would qualify

1 for the rolling stock exemption otherwise provided for in this
2 Act. For purposes of this paragraph, "used for commercial
3 purposes" means the transportation of persons or property in
4 furtherance of any commercial or industrial enterprise whether
5 for-hire or not.

6 (d-2) The repairing, reconditioning or remodeling, for a
7 common carrier by rail, of tangible personal property which
8 belongs to such carrier for hire, and as to which such carrier
9 receives the physical possession of the repaired,
10 reconditioned or remodeled item of tangible personal property
11 in Illinois, and which such carrier transports, or shares with
12 another common carrier in the transportation of such property,
13 out of Illinois on a standard uniform bill of lading showing
14 the person who repaired, reconditioned or remodeled the
15 property as the shipper or consignor of such property to a
16 destination outside Illinois, for use outside Illinois.

17 (d-3) A sale or transfer of tangible personal property
18 which is produced by the seller thereof on special order in
19 such a way as to have made the applicable tax the Service
20 Occupation Tax or the Service Use Tax, rather than the
21 Retailers' Occupation Tax or the Use Tax, for an interstate
22 carrier by rail which receives the physical possession of such
23 property in Illinois, and which transports such property, or
24 shares with another common carrier in the transportation of
25 such property, out of Illinois on a standard uniform bill of
26 lading showing the seller of the property as the shipper or
27 consignor of such property to a destination outside Illinois,
28 for use outside Illinois.

29 (d-4) Until January 1, 1997, a sale, by a registered
30 serviceman paying tax under this Act to the Department, of
31 special order printed materials delivered outside Illinois and
32 which are not returned to this State, if delivery is made by
33 the seller or agent of the seller, including an agent who
34 causes the product to be delivered outside Illinois by a common

1 carrier or the U.S. postal service.

2 (e) A sale or transfer of machinery and equipment used
3 primarily in the process of the manufacturing or assembling,
4 either in an existing, an expanded or a new manufacturing
5 facility, of tangible personal property for wholesale or retail
6 sale or lease, whether such sale or lease is made directly by
7 the manufacturer or by some other person, whether the materials
8 used in the process are owned by the manufacturer or some other
9 person, or whether such sale or lease is made apart from or as
10 an incident to the seller's engaging in a service occupation
11 and the applicable tax is a Service Occupation Tax or Service
12 Use Tax, rather than Retailers' Occupation Tax or Use Tax.

13 (f) Until July 1, 2003, the sale or transfer of
14 distillation machinery and equipment, sold as a unit or kit and
15 assembled or installed by the retailer, which machinery and
16 equipment is certified by the user to be used only for the
17 production of ethyl alcohol that will be used for consumption
18 as motor fuel or as a component of motor fuel for the personal
19 use of such user and not subject to sale or resale.

20 (g) At the election of any serviceman not required to be
21 otherwise registered as a retailer under Section 2a of the
22 Retailers' Occupation Tax Act, made for each fiscal year sales
23 of service in which the aggregate annual cost price of tangible
24 personal property transferred as an incident to the sales of
25 service is less than 35% (75% in the case of servicemen
26 transferring prescription drugs or servicemen engaged in
27 graphic arts production) of the aggregate annual total gross
28 receipts from all sales of service. The purchase of such
29 tangible personal property by the serviceman shall be subject
30 to tax under the Retailers' Occupation Tax Act and the Use Tax
31 Act. However, if a primary serviceman who has made the election
32 described in this paragraph subcontracts service work to a
33 secondary serviceman who has also made the election described
34 in this paragraph, the primary serviceman does not incur a Use

1 Tax liability if the secondary serviceman (i) has paid or will
2 pay Use Tax on his or her cost price of any tangible personal
3 property transferred to the primary serviceman and (ii)
4 certifies that fact in writing to the primary serviceman.

5 Tangible personal property transferred incident to the
6 completion of a maintenance agreement is exempt from the tax
7 imposed pursuant to this Act.

8 ~~Exemption (e) also includes machinery and equipment used in
9 the general maintenance or repair of such exempt machinery and
10 equipment or for in-house manufacture of exempt machinery and
11 equipment. For the purposes of exemption (e), each of these
12 terms shall have the following meanings: (1) "manufacturing
13 process" shall mean the production of any article of tangible
14 personal property, whether such article is a finished product
15 or an article for use in the process of manufacturing or
16 assembling a different article of tangible personal property,
17 by procedures commonly regarded as manufacturing, processing,
18 fabricating, or refining which changes some existing material
19 or materials into a material with a different form, use or
20 name. In relation to a recognized integrated business composed
21 of a series of operations which collectively constitute
22 manufacturing, or individually constitute manufacturing
23 operations, the manufacturing process shall be deemed to
24 commence with the first operation or stage of production in the
25 series, and shall not be deemed to end until the completion of
26 the final product in the last operation or stage of production
27 in the series; and further for purposes of exemption (e),
28 photoprocessing is deemed to be a manufacturing process of
29 tangible personal property for wholesale or retail sale; (2)
30 "assembling process" shall mean the production of any article
31 of tangible personal property, whether such article is a
32 finished product or an article for use in the process of
33 manufacturing or assembling a different article of tangible
34 personal property, by the combination of existing materials in~~

1 ~~a manner commonly regarded as assembling which results in a~~
2 ~~material of a different form, use or name; (3) "machinery"~~
3 ~~shall mean major mechanical machines or major components of~~
4 ~~such machines contributing to a manufacturing or assembling~~
5 ~~process; and (4) "equipment" shall include any independent~~
6 ~~device or tool separate from any machinery but essential to an~~
7 ~~integrated manufacturing or assembly process; including~~
8 ~~computers used primarily in a manufacturer's computer assisted~~
9 ~~design, computer assisted manufacturing (CAD/CAM) system; or~~
10 ~~any subunit or assembly comprising a component of any machinery~~
11 ~~or auxiliary, adjunct or attachment parts of machinery, such as~~
12 ~~tools, dies, jigs, fixtures, patterns and molds; or any parts~~
13 ~~which require periodic replacement in the course of normal~~
14 ~~operation; but shall not include hand tools. Equipment includes~~
15 ~~chemicals or chemicals acting as catalysts but only if the~~
16 ~~chemicals or chemicals acting as catalysts effect a direct and~~
17 ~~immediate change upon a product being manufactured or assembled~~
18 ~~for wholesale or retail sale or lease. The purchaser of such~~
19 ~~machinery and equipment who has an active resale registration~~
20 ~~number shall furnish such number to the seller at the time of~~
21 ~~purchase. The purchaser of such machinery and equipment and~~
22 ~~tools without an active resale registration number shall~~
23 ~~furnish to the seller a certificate of exemption for each~~
24 ~~transaction stating facts establishing the exemption for that~~
25 ~~transaction, which certificate shall be available to the~~
26 ~~Department for inspection or audit.~~

27 Except as provided in Section 2d of this Act, the rolling
28 stock exemption applies to rolling stock used by an interstate
29 carrier for hire, even just between points in Illinois, if such
30 rolling stock transports, for hire, persons whose journeys or
31 property whose shipments originate or terminate outside
32 Illinois.

33 Any informal rulings, opinions or letters issued by the
34 Department in response to an inquiry or request for any opinion

1 from any person regarding the coverage and applicability of
2 exemption (e) to specific devices shall be published,
3 maintained as a public record, and made available for public
4 inspection and copying. If the informal ruling, opinion or
5 letter contains trade secrets or other confidential
6 information, where possible the Department shall delete such
7 information prior to publication. Whenever such informal
8 rulings, opinions, or letters contain any policy of general
9 applicability, the Department shall formulate and adopt such
10 policy as a rule in accordance with the provisions of the
11 Illinois Administrative Procedure Act.

12 On and after July 1, 1987, no entity otherwise eligible
13 under exemption (c) of this Section shall make tax free
14 purchases unless it has an active exemption identification
15 number issued by the Department.

16 "Serviceman" means any person who is engaged in the
17 occupation of making sales of service.

18 "Sale at Retail" means "sale at retail" as defined in the
19 Retailers' Occupation Tax Act.

20 "Supplier" means any person who makes sales of tangible
21 personal property to servicemen for the purpose of resale as an
22 incident to a sale of service.

23 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
24 eff. 6-20-03; 93-1033, eff. 9-3-04.)

25 Section 30. The Retailers' Occupation Tax Act is amended by
26 changing Sections 1 and 2-5 as follows:

27 (35 ILCS 120/1) (from Ch. 120, par. 440)

28 Sec. 1. Definitions. "Sale at retail" means any transfer of
29 the ownership of or title to tangible personal property to a
30 purchaser, for the purpose of use or consumption, and not for
31 the purpose of resale in any form as tangible personal property
32 to the extent not first subjected to a use for which it was

1 purchased, for a valuable consideration: Provided that the
2 property purchased is deemed to be purchased for the purpose of
3 resale, despite first being used, to the extent to which it is
4 resold as an ingredient of an intentionally produced product or
5 byproduct of manufacturing. For this purpose, slag produced as
6 an incident to manufacturing pig iron or steel and sold is
7 considered to be an intentionally produced byproduct of
8 manufacturing. Transactions whereby the possession of the
9 property is transferred but the seller retains the title as
10 security for payment of the selling price shall be deemed to be
11 sales.

12 "Sale at retail" shall be construed to include any transfer
13 of the ownership of or title to tangible personal property to a
14 purchaser, for use or consumption by any other person to whom
15 such purchaser may transfer the tangible personal property
16 without a valuable consideration, and to include any transfer,
17 whether made for or without a valuable consideration, for
18 resale in any form as tangible personal property unless made in
19 compliance with Section 2c of this Act.

20 Sales of tangible personal property, which property, to the
21 extent not first subjected to a use for which it was purchased,
22 as an ingredient or constituent, goes into and forms a part of
23 tangible personal property subsequently the subject of a "Sale
24 at retail", are not sales at retail as defined in this Act:
25 Provided that the property purchased is deemed to be purchased
26 for the purpose of resale, despite first being used, to the
27 extent to which it is resold as an ingredient of an
28 intentionally produced product or byproduct of manufacturing.

29 "Sale at retail" shall be construed to include all of the
30 following services, as enumerated in the North American
31 Industry Classification System Manual (NAICS), 1997, prepared
32 by the United States Office of Management and Budget:

33 (1) Specialized good warehousing and storage
34 (4931902).

- 1 (2) Household goods warehousing and storage (4931901).
- 2 (3) Marinas (7131901).
- 3 (4) Travel arrangement reservation services (5615).
- 4 (5) Consumer electronics repair and maintenance
5 (811211).
- 6 (6) Personal and household goods.
- 7 (7) Carpet and upholstery cleaning services (56174).
- 8 (8) Dating services (8129902).
- 9 (9) Hair, nail, and skin care (81211).
- 10 (10) Other personal services other than hair, nail,
11 facial, or nonpermanent makeup services (81219).
- 12 (11) Dry cleaning and laundry, except coin-operated
13 (81232).
- 14 (12) Consumer goods rental (5322).
- 15 (13) General goods rental (5323).
- 16 (14) Diet and weight reducing services (812191).
- 17 (15) Investigation services (561611).
- 18 (16) Bail bonding (8129901).
- 19 (17) Telephone answering services (561421).
- 20 (18) Photographic studios, portrait (541921).
- 21 (19) Linen supply (812331).
- 22 (20) Industrial launderers (812332).
- 23 (21) Interior design services (54141).
- 24 (22) Computer systems design and related services
25 (5415).
- 26 (23) Credit bureaus (56145).
- 27 (24) Collection agencies (56144).
- 28 (25) Other business services, including copy shops
29 (561439).
- 30 (26) Automotive repair and maintenance (8111).
- 31 (27) Parking lots and garages (81293).
- 32 (28) Motor vehicle towing (48841).
- 33 (29) Racetracks (711212).
- 34 (30) Amusement parks and arcades (7131).

- 1 (31) Bowling Centers (71395).
2 (32) Cable and other program distribution (51322).
3 (33) Circuses (7111901).
4 (34) Coin operated amusement devices, except slots
5 (7139905).
6 (35) Golf courses and country clubs (71391).
7 (36) Fitness and recreational sports centers (711211).
8 (37) Sports teams and clubs (711211).
9 (38) Performing arts companies (7111).
10 (39) Miniature golf courses (7139904).
11 (40) Scenic and sightseeing transportation (487).
12 (41) Limousine services (48532).
13 (42) Unscheduled chartered passenger air
14 transportation (481211).
15 (43) Motion picture theaters, except drive-in theaters
16 (512131).
17 (44) Drive-in motion picture theaters (512132).

18 "Sale at retail" shall be construed to include any Illinois
19 florist's sales transaction in which the purchase order is
20 received in Illinois by a florist and the sale is for use or
21 consumption, but the Illinois florist has a florist in another
22 state deliver the property to the purchaser or the purchaser's
23 donee in such other state.

24 Nonreusable tangible personal property that is used by
25 persons engaged in the business of operating a restaurant,
26 cafeteria, or drive-in is a sale for resale when it is
27 transferred to customers in the ordinary course of business as
28 part of the sale of food or beverages and is used to deliver,
29 package, or consume food or beverages, regardless of where
30 consumption of the food or beverages occurs. Examples of those
31 items include, but are not limited to nonreusable, paper and
32 plastic cups, plates, baskets, boxes, sleeves, buckets or other
33 containers, utensils, straws, placemats, napkins, doggie bags,
34 and wrapping or packaging materials that are transferred to

1 customers as part of the sale of food or beverages in the
2 ordinary course of business.

3 ~~The purchase, employment and transfer of such tangible~~
4 ~~personal property as newsprint and ink for the primary purpose~~
5 ~~of conveying news (with or without other information) is not a~~
6 ~~purchase, use or sale of tangible personal property.~~

7 A person whose activities are organized and conducted
8 primarily as a not-for-profit service enterprise, and who
9 engages in selling tangible personal property at retail
10 (whether to the public or merely to members and their guests)
11 is engaged in the business of selling tangible personal
12 property at retail with respect to such transactions, excepting
13 only a person organized and operated exclusively for
14 charitable, religious or educational purposes either (1), to
15 the extent of sales by such person to its members, students,
16 patients or inmates of tangible personal property to be used
17 primarily for the purposes of such person, or (2), to the
18 extent of sales by such person of tangible personal property
19 which is not sold or offered for sale by persons organized for
20 profit. The selling of school books and school supplies by
21 schools at retail to students is not "primarily for the
22 purposes of" the school which does such selling. The provisions
23 of this paragraph shall not apply to nor subject to taxation
24 occasional dinners, socials or similar activities of a person
25 organized and operated exclusively for charitable, religious
26 or educational purposes, whether or not such activities are
27 open to the public.

28 A person who is the recipient of a grant or contract under
29 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
30 serves meals to participants in the federal Nutrition Program
31 for the Elderly in return for contributions established in
32 amount by the individual participant pursuant to a schedule of
33 suggested fees as provided for in the federal Act is not
34 engaged in the business of selling tangible personal property

1 at retail with respect to such transactions.

2 "Purchaser" means anyone who, through a sale at retail,
3 acquires the ownership of or title to tangible personal
4 property for a valuable consideration.

5 "Reseller of motor fuel" means any person engaged in the
6 business of selling or delivering or transferring title of
7 motor fuel to another person other than for use or consumption.
8 No person shall act as a reseller of motor fuel within this
9 State without first being registered as a reseller pursuant to
10 Section 2c or a retailer pursuant to Section 2a.

11 "Selling price" or the "amount of sale" means the
12 consideration for a sale valued in money whether received in
13 money or otherwise, including cash, credits, property, other
14 than as hereinafter provided, and services, but not including
15 the value of or credit given for traded-in tangible personal
16 property where the item that is traded-in is of like kind and
17 character as that which is being sold, and shall be determined
18 without any deduction on account of the cost of the property
19 sold, the cost of materials used, labor or service cost or any
20 other expense whatsoever, but does not include charges that are
21 added to prices by sellers on account of the seller's tax
22 liability under this Act, or on account of the seller's duty to
23 collect, from the purchaser, the tax that is imposed by the Use
24 Tax Act, or on account of the seller's tax liability under
25 Section 8-11-1 of the Illinois Municipal Code, as heretofore
26 and hereafter amended, or on account of the seller's tax
27 liability under the County Retailers' Occupation Tax Act, or on
28 account of the seller's tax liability under the Home Rule
29 Municipal Soft Drink Retailers' Occupation Tax, or on account
30 of the seller's tax liability under any tax imposed under the
31 "Regional Transportation Authority Act", approved December 12,
32 1973. Effective December 1, 1985, "selling price" shall include
33 charges that are added to prices by sellers on account of the
34 seller's tax liability under the Cigarette Tax Act, on account

1 of the sellers' duty to collect, from the purchaser, the tax
2 imposed under the Cigarette Use Tax Act, and on account of the
3 seller's duty to collect, from the purchaser, any cigarette tax
4 imposed by a home rule unit.

5 The phrase "like kind and character" shall be liberally
6 construed (including but not limited to any form of motor
7 vehicle for any form of motor vehicle, or any kind of farm or
8 agricultural implement for any other kind of farm or
9 agricultural implement), while not including a kind of item
10 which, if sold at retail by that retailer, would be exempt from
11 retailers' occupation tax and use tax as an isolated or
12 occasional sale.

13 "Gross receipts" from the sales of tangible personal
14 property at retail means the total selling price or the amount
15 of such sales, as hereinbefore defined. In the case of charge
16 and time sales, the amount thereof shall be included only as
17 and when payments are received by the seller. Receipts or other
18 consideration derived by a seller from the sale, transfer or
19 assignment of accounts receivable to a wholly owned subsidiary
20 will not be deemed payments prior to the time the purchaser
21 makes payment on such accounts.

22 "Department" means the Department of Revenue.

23 "Person" means any natural individual, firm, partnership,
24 association, joint stock company, joint adventure, public or
25 private corporation, limited liability company, or a receiver,
26 executor, trustee, guardian or other representative appointed
27 by order of any court.

28 The isolated or occasional sale of tangible personal
29 property at retail by a person who does not hold himself out as
30 being engaged (or who does not habitually engage) in selling
31 such tangible personal property at retail, or a sale through a
32 bulk vending machine, does not constitute engaging in a
33 business of selling such tangible personal property at retail
34 within the meaning of this Act; provided that any person who is

1 engaged in a business which is not subject to the tax imposed
2 by this Act because of involving the sale of or a contract to
3 sell real estate or a construction contract to improve real
4 estate or a construction contract to engineer, install, and
5 maintain an integrated system of products, but who, in the
6 course of conducting such business, transfers tangible
7 personal property to users or consumers in the finished form in
8 which it was purchased, and which does not become real estate
9 or was not engineered and installed, under any provision of a
10 construction contract or real estate sale or real estate sales
11 agreement entered into with some other person arising out of or
12 because of such nontaxable business, is engaged in the business
13 of selling tangible personal property at retail to the extent
14 of the value of the tangible personal property so transferred.
15 If, in such a transaction, a separate charge is made for the
16 tangible personal property so transferred, the value of such
17 property, for the purpose of this Act, shall be the amount so
18 separately charged, but not less than the cost of such property
19 to the transferor; if no separate charge is made, the value of
20 such property, for the purposes of this Act, is the cost to the
21 transferor of such tangible personal property. Construction
22 contracts for the improvement of real estate consisting of
23 engineering, installation, and maintenance of voice, data,
24 video, security, and all telecommunication systems do not
25 constitute engaging in a business of selling tangible personal
26 property at retail within the meaning of this Act if they are
27 sold at one specified contract price.

28 A person who holds himself or herself out as being engaged
29 (or who habitually engages) in selling tangible personal
30 property at retail is a person engaged in the business of
31 selling tangible personal property at retail hereunder with
32 respect to such sales (and not primarily in a service
33 occupation) notwithstanding the fact that such person designs
34 and produces such tangible personal property on special order

1 for the purchaser and in such a way as to render the property
2 of value only to such purchaser, if such tangible personal
3 property so produced on special order serves substantially the
4 same function as stock or standard items of tangible personal
5 property that are sold at retail.

6 Persons who engage in the business of transferring tangible
7 personal property upon the redemption of trading stamps are
8 engaged in the business of selling such property at retail and
9 shall be liable for and shall pay the tax imposed by this Act
10 on the basis of the retail value of the property transferred
11 upon redemption of such stamps.

12 "Bulk vending machine" means a vending machine, containing
13 unsorted confections, nuts, toys, or other items designed
14 primarily to be used or played with by children which, when a
15 coin or coins of a denomination not larger than \$0.50 are
16 inserted, are dispensed in equal portions, at random and
17 without selection by the customer.

18 (Source: P.A. 92-213, eff. 1-1-02.)

19 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

20 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
21 sale of the following tangible personal property are exempt
22 from the tax imposed by this Act:

23 (1) Farm chemicals.

24 (2) Farm machinery and equipment, both new and used,
25 including that manufactured on special order, certified by the
26 purchaser to be used primarily for production agriculture or
27 State or federal agricultural programs, including individual
28 replacement parts for the machinery and equipment, including
29 machinery and equipment purchased for lease, and including
30 implements of husbandry defined in Section 1-130 of the
31 Illinois Vehicle Code, farm machinery and agricultural
32 chemical and fertilizer spreaders, and nurse wagons required to
33 be registered under Section 3-809 of the Illinois Vehicle Code,

1 but excluding other motor vehicles required to be registered
2 under the Illinois Vehicle Code. Horticultural polyhouses or
3 hoop houses used for propagating, growing, or overwintering
4 plants shall be considered farm machinery and equipment under
5 this item (2). Agricultural chemical tender tanks and dry boxes
6 shall include units sold separately from a motor vehicle
7 required to be licensed and units sold mounted on a motor
8 vehicle required to be licensed, if the selling price of the
9 tender is separately stated.

10 Farm machinery and equipment shall include precision
11 farming equipment that is installed or purchased to be
12 installed on farm machinery and equipment including, but not
13 limited to, tractors, harvesters, sprayers, planters, seeders,
14 or spreaders. Precision farming equipment includes, but is not
15 limited to, soil testing sensors, computers, monitors,
16 software, global positioning and mapping systems, and other
17 such equipment.

18 Farm machinery and equipment also includes computers,
19 sensors, software, and related equipment used primarily in the
20 computer-assisted operation of production agriculture
21 facilities, equipment, and activities such as, but not limited
22 to, the collection, monitoring, and correlation of animal and
23 crop data for the purpose of formulating animal diets and
24 agricultural chemicals. This item (7) is exempt from the
25 provisions of Section 2-70.

26 (3) Until July 1, 2003, distillation machinery and
27 equipment, sold as a unit or kit, assembled or installed by the
28 retailer, certified by the user to be used only for the
29 production of ethyl alcohol that will be used for consumption
30 as motor fuel or as a component of motor fuel for the personal
31 use of the user, and not subject to sale or resale.

32 (4) Until July 1, 2003 and beginning again September 1,
33 2004, graphic arts machinery and equipment, including repair
34 and replacement parts, both new and used, and including that

1 manufactured on special order or purchased for lease, certified
2 by the purchaser to be used primarily for graphic arts
3 production. Equipment includes chemicals or chemicals acting
4 as catalysts but only if the chemicals or chemicals acting as
5 catalysts effect a direct and immediate change upon a graphic
6 arts product.

7 (5) (Blank). ~~A motor vehicle of the first division, a motor
8 vehicle of the second division that is a self-contained motor
9 vehicle designed or permanently converted to provide living
10 quarters for recreational, camping, or travel use, with direct
11 walk through access to the living quarters from the driver's
12 seat, or a motor vehicle of the second division that is of the
13 van configuration designed for the transportation of not less
14 than 7 nor more than 16 passengers, as defined in Section 1-146
15 of the Illinois Vehicle Code, that is used for automobile
16 renting, as defined in the Automobile Renting Occupation and
17 Use Tax Act.~~

18 (6) Personal property sold by a teacher-sponsored student
19 organization affiliated with an elementary or secondary school
20 located in Illinois.

21 (7) Until July 1, 2003, proceeds of that portion of the
22 selling price of a passenger car the sale of which is subject
23 to the Replacement Vehicle Tax.

24 (8) Personal property sold to an Illinois county fair
25 association for use in conducting, operating, or promoting the
26 county fair.

27 (9) Personal property sold to a not-for-profit arts or
28 cultural organization that establishes, by proof required by
29 the Department by rule, that it has received an exemption under
30 Section 501(c)(3) of the Internal Revenue Code and that is
31 organized and operated primarily for the presentation or
32 support of arts or cultural programming, activities, or
33 services. These organizations include, but are not limited to,
34 music and dramatic arts organizations such as symphony

1 orchestras and theatrical groups, arts and cultural service
2 organizations, local arts councils, visual arts organizations,
3 and media arts organizations. On and after the effective date
4 of this amendatory Act of the 92nd General Assembly, however,
5 an entity otherwise eligible for this exemption shall not make
6 tax-free purchases unless it has an active identification
7 number issued by the Department.

8 (10) Personal property sold by a corporation, society,
9 association, foundation, institution, or organization, other
10 than a limited liability company, that is organized and
11 operated as a not-for-profit service enterprise for the benefit
12 of persons 65 years of age or older if the personal property
13 was not purchased by the enterprise for the purpose of resale
14 by the enterprise.

15 (11) Personal property sold to a governmental body, to a
16 corporation, society, association, foundation, or institution
17 organized and operated exclusively for charitable, religious,
18 or educational purposes, or to a not-for-profit corporation,
19 society, association, foundation, institution, or organization
20 that has no compensated officers or employees and that is
21 organized and operated primarily for the recreation of persons
22 55 years of age or older. A limited liability company may
23 qualify for the exemption under this paragraph only if the
24 limited liability company is organized and operated
25 exclusively for educational purposes. On and after July 1,
26 1987, however, no entity otherwise eligible for this exemption
27 shall make tax-free purchases unless it has an active
28 identification number issued by the Department.

29 (12) Tangible personal property sold to interstate
30 carriers for hire for use as rolling stock moving in interstate
31 commerce or to lessors under leases of one year or longer
32 executed or in effect at the time of purchase by interstate
33 carriers for hire for use as rolling stock moving in interstate
34 commerce and equipment operated by a telecommunications

1 provider, licensed as a common carrier by the Federal
2 Communications Commission, which is permanently installed in
3 or affixed to aircraft moving in interstate commerce.

4 (12-5) On and after July 1, 2003 and through June 30, 2004,
5 motor vehicles of the second division with a gross vehicle
6 weight in excess of 8,000 pounds that are subject to the
7 commercial distribution fee imposed under Section 3-815.1 of
8 the Illinois Vehicle Code. Beginning on July 1, 2004 and
9 through June 30, 2005, the use in this State of motor vehicles
10 of the second division: (i) with a gross vehicle weight rating
11 in excess of 8,000 pounds; (ii) that are subject to the
12 commercial distribution fee imposed under Section 3-815.1 of
13 the Illinois Vehicle Code; and (iii) that are primarily used
14 for commercial purposes. Through June 30, 2005, this exemption
15 applies to repair and replacement parts added after the initial
16 purchase of such a motor vehicle if that motor vehicle is used
17 in a manner that would qualify for the rolling stock exemption
18 otherwise provided for in this Act. For purposes of this
19 paragraph, "used for commercial purposes" means the
20 transportation of persons or property in furtherance of any
21 commercial or industrial enterprise whether for-hire or not.

22 (13) Proceeds from sales to owners, lessors, or shippers of
23 tangible personal property that is utilized by interstate
24 carriers for hire for use as rolling stock moving in interstate
25 commerce and equipment operated by a telecommunications
26 provider, licensed as a common carrier by the Federal
27 Communications Commission, which is permanently installed in
28 or affixed to aircraft moving in interstate commerce.

29 (14) (Blank). ~~Machinery and equipment that will be used by~~
30 ~~the purchaser, or a lessee of the purchaser, primarily in the~~
31 ~~process of manufacturing or assembling tangible personal~~
32 ~~property for wholesale or retail sale or lease, whether the~~
33 ~~sale or lease is made directly by the manufacturer or by some~~
34 ~~other person, whether the materials used in the process are~~

1 ~~owned by the manufacturer or some other person, or whether the~~
2 ~~sale or lease is made apart from or as an incident to the~~
3 ~~seller's engaging in the service occupation of producing~~
4 ~~machines, tools, dies, jigs, patterns, gauges, or other similar~~
5 ~~items of no commercial value on special order for a particular~~
6 ~~purchaser.~~

7 (15) Proceeds of mandatory service charges separately
8 stated on customers' bills for purchase and consumption of food
9 and beverages, to the extent that the proceeds of the service
10 charge are in fact turned over as tips or as a substitute for
11 tips to the employees who participate directly in preparing,
12 serving, hosting or cleaning up the food or beverage function
13 with respect to which the service charge is imposed.

14 (16) Petroleum products sold to a purchaser if the seller
15 is prohibited by federal law from charging tax to the
16 purchaser.

17 (17) Tangible personal property sold to a common carrier by
18 rail or motor that receives the physical possession of the
19 property in Illinois and that transports the property, or
20 shares with another common carrier in the transportation of the
21 property, out of Illinois on a standard uniform bill of lading
22 showing the seller of the property as the shipper or consignor
23 of the property to a destination outside Illinois, for use
24 outside Illinois.

25 (18) Legal tender, currency, medallions, or gold or silver
26 coinage issued by the State of Illinois, the government of the
27 United States of America, or the government of any foreign
28 country, and bullion.

29 (19) Until July 1 2003, oil field exploration, drilling,
30 and production equipment, including (i) rigs and parts of rigs,
31 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
32 tubular goods, including casing and drill strings, (iii) pumps
33 and pump-jack units, (iv) storage tanks and flow lines, (v) any
34 individual replacement part for oil field exploration,

1 drilling, and production equipment, and (vi) machinery and
2 equipment purchased for lease; but excluding motor vehicles
3 required to be registered under the Illinois Vehicle Code.

4 (20) Photoprocessing machinery and equipment, including
5 repair and replacement parts, both new and used, including that
6 manufactured on special order, certified by the purchaser to be
7 used primarily for photoprocessing, and including
8 photoprocessing machinery and equipment purchased for lease.

9 (21) Until July 1, 2003, coal exploration, mining,
10 offhighway hauling, processing, maintenance, and reclamation
11 equipment, including replacement parts and equipment, and
12 including equipment purchased for lease, but excluding motor
13 vehicles required to be registered under the Illinois Vehicle
14 Code.

15 (22) Fuel and petroleum products sold to or used by an air
16 carrier, certified by the carrier to be used for consumption,
17 shipment, or storage in the conduct of its business as an air
18 common carrier, for a flight destined for or returning from a
19 location or locations outside the United States without regard
20 to previous or subsequent domestic stopovers.

21 (23) A transaction in which the purchase order is received
22 by a florist who is located outside Illinois, but who has a
23 florist located in Illinois deliver the property to the
24 purchaser or the purchaser's donee in Illinois.

25 (24) Fuel consumed or used in the operation of ships,
26 barges, or vessels that are used primarily in or for the
27 transportation of property or the conveyance of persons for
28 hire on rivers bordering on this State if the fuel is delivered
29 by the seller to the purchaser's barge, ship, or vessel while
30 it is afloat upon that bordering river.

31 (25) Except as provided in item (25-5) of this Section, a
32 motor vehicle sold in this State to a nonresident even though
33 the motor vehicle is delivered to the nonresident in this
34 State, if the motor vehicle is not to be titled in this State,

1 and if a drive-away permit is issued to the motor vehicle as
2 provided in Section 3-603 of the Illinois Vehicle Code or if
3 the nonresident purchaser has vehicle registration plates to
4 transfer to the motor vehicle upon returning to his or her home
5 state. The issuance of the drive-away permit or having the
6 out-of-state registration plates to be transferred is prima
7 facie evidence that the motor vehicle will not be titled in
8 this State.

9 (25-5) The exemption under item (25) does not apply if the
10 state in which the motor vehicle will be titled does not allow
11 a reciprocal exemption for a motor vehicle sold and delivered
12 in that state to an Illinois resident but titled in Illinois.
13 The tax collected under this Act on the sale of a motor vehicle
14 in this State to a resident of another state that does not
15 allow a reciprocal exemption shall be imposed at a rate equal
16 to the state's rate of tax on taxable property in the state in
17 which the purchaser is a resident, except that the tax shall
18 not exceed the tax that would otherwise be imposed under this
19 Act. At the time of the sale, the purchaser shall execute a
20 statement, signed under penalty of perjury, of his or her
21 intent to title the vehicle in the state in which the purchaser
22 is a resident within 30 days after the sale and of the fact of
23 the payment to the State of Illinois of tax in an amount
24 equivalent to the state's rate of tax on taxable property in
25 his or her state of residence and shall submit the statement to
26 the appropriate tax collection agency in his or her state of
27 residence. In addition, the retailer must retain a signed copy
28 of the statement in his or her records. Nothing in this item
29 shall be construed to require the removal of the vehicle from
30 this state following the filing of an intent to title the
31 vehicle in the purchaser's state of residence if the purchaser
32 titles the vehicle in his or her state of residence within 30
33 days after the date of sale. The tax collected under this Act
34 in accordance with this item (25-5) shall be proportionately

1 distributed as if the tax were collected at the 6.25% general
2 rate imposed under this Act.

3 (26) Semen used for artificial insemination of livestock
4 for direct agricultural production.

5 (27) Horses, or interests in horses, registered with and
6 meeting the requirements of any of the Arabian Horse Club
7 Registry of America, Appaloosa Horse Club, American Quarter
8 Horse Association, United States Trotting Association, or
9 Jockey Club, as appropriate, used for purposes of breeding or
10 racing for prizes.

11 (28) Computers and communications equipment utilized for
12 any hospital purpose and equipment used in the diagnosis,
13 analysis, or treatment of hospital patients sold to a lessor
14 who leases the equipment, under a lease of one year or longer
15 executed or in effect at the time of the purchase, to a
16 hospital that has been issued an active tax exemption
17 identification number by the Department under Section 1g of
18 this Act.

19 (29) Personal property sold to a lessor who leases the
20 property, under a lease of one year or longer executed or in
21 effect at the time of the purchase, to a governmental body that
22 has been issued an active tax exemption identification number
23 by the Department under Section 1g of this Act.

24 (30) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is donated for
27 disaster relief to be used in a State or federally declared
28 disaster area in Illinois or bordering Illinois by a
29 manufacturer or retailer that is registered in this State to a
30 corporation, society, association, foundation, or institution
31 that has been issued a sales tax exemption identification
32 number by the Department that assists victims of the disaster
33 who reside within the declared disaster area.

34 (31) Beginning with taxable years ending on or after

1 December 31, 1995 and ending with taxable years ending on or
2 before December 31, 2004, personal property that is used in the
3 performance of infrastructure repairs in this State, including
4 but not limited to municipal roads and streets, access roads,
5 bridges, sidewalks, waste disposal systems, water and sewer
6 line extensions, water distribution and purification
7 facilities, storm water drainage and retention facilities, and
8 sewage treatment facilities, resulting from a State or
9 federally declared disaster in Illinois or bordering Illinois
10 when such repairs are initiated on facilities located in the
11 declared disaster area within 6 months after the disaster.

12 (32) Beginning July 1, 1999, game or game birds sold at a
13 "game breeding and hunting preserve area" or an "exotic game
14 hunting area" as those terms are used in the Wildlife Code or
15 at a hunting enclosure approved through rules adopted by the
16 Department of Natural Resources. This paragraph is exempt from
17 the provisions of Section 2-70.

18 (33) A motor vehicle, as that term is defined in Section
19 1-146 of the Illinois Vehicle Code, that is donated to a
20 corporation, limited liability company, society, association,
21 foundation, or institution that is determined by the Department
22 to be organized and operated exclusively for educational
23 purposes. For purposes of this exemption, "a corporation,
24 limited liability company, society, association, foundation,
25 or institution organized and operated exclusively for
26 educational purposes" means all tax-supported public schools,
27 private schools that offer systematic instruction in useful
28 branches of learning by methods common to public schools and
29 that compare favorably in their scope and intensity with the
30 course of study presented in tax-supported schools, and
31 vocational or technical schools or institutes organized and
32 operated exclusively to provide a course of study of not less
33 than 6 weeks duration and designed to prepare individuals to
34 follow a trade or to pursue a manual, technical, mechanical,

1 industrial, business, or commercial occupation.

2 (34) Beginning January 1, 2000, personal property,
3 including food, purchased through fundraising events for the
4 benefit of a public or private elementary or secondary school,
5 a group of those schools, or one or more school districts if
6 the events are sponsored by an entity recognized by the school
7 district that consists primarily of volunteers and includes
8 parents and teachers of the school children. This paragraph
9 does not apply to fundraising events (i) for the benefit of
10 private home instruction or (ii) for which the fundraising
11 entity purchases the personal property sold at the events from
12 another individual or entity that sold the property for the
13 purpose of resale by the fundraising entity and that profits
14 from the sale to the fundraising entity. This paragraph is
15 exempt from the provisions of Section 2-70.

16 (35) Beginning January 1, 2000 and through December 31,
17 2001, new or used automatic vending machines that prepare and
18 serve hot food and beverages, including coffee, soup, and other
19 items, and replacement parts for these machines. Beginning
20 January 1, 2002 and through June 30, 2003, machines and parts
21 for machines used in commercial, coin-operated amusement and
22 vending business if a use or occupation tax is paid on the
23 gross receipts derived from the use of the commercial,
24 coin-operated amusement and vending machines. This paragraph
25 is exempt from the provisions of Section 2-70.

26 (35-5) Food for human consumption that is to be consumed
27 off the premises where it is sold (other than alcoholic
28 beverages, soft drinks, and food that has been prepared for
29 immediate consumption) and prescription and nonprescription
30 medicines, drugs, medical appliances, and insulin, urine
31 testing materials, syringes, and needles used by diabetics, for
32 human use, when purchased for use by a person receiving medical
33 assistance under Article 5 of the Illinois Public Aid Code who
34 resides in a licensed long-term care facility, as defined in

1 the Nursing Home Care Act.

2 (36) Beginning August 2, 2001, computers and
3 communications equipment utilized for any hospital purpose and
4 equipment used in the diagnosis, analysis, or treatment of
5 hospital patients sold to a lessor who leases the equipment,
6 under a lease of one year or longer executed or in effect at
7 the time of the purchase, to a hospital that has been issued an
8 active tax exemption identification number by the Department
9 under Section 1g of this Act. This paragraph is exempt from the
10 provisions of Section 2-70.

11 (37) Beginning August 2, 2001, personal property sold to a
12 lessor who leases the property, under a lease of one year or
13 longer executed or in effect at the time of the purchase, to a
14 governmental body that has been issued an active tax exemption
15 identification number by the Department under Section 1g of
16 this Act. This paragraph is exempt from the provisions of
17 Section 2-70.

18 (38) Beginning on January 1, 2002, tangible personal
19 property purchased from an Illinois retailer by a taxpayer
20 engaged in centralized purchasing activities in Illinois who
21 will, upon receipt of the property in Illinois, temporarily
22 store the property in Illinois (i) for the purpose of
23 subsequently transporting it outside this State for use or
24 consumption thereafter solely outside this State or (ii) for
25 the purpose of being processed, fabricated, or manufactured
26 into, attached to, or incorporated into other tangible personal
27 property to be transported outside this State and thereafter
28 used or consumed solely outside this State. The Director of
29 Revenue shall, pursuant to rules adopted in accordance with the
30 Illinois Administrative Procedure Act, issue a permit to any
31 taxpayer in good standing with the Department who is eligible
32 for the exemption under this paragraph (38). The permit issued
33 under this paragraph (38) shall authorize the holder, to the
34 extent and in the manner specified in the rules adopted under

1 this Act, to purchase tangible personal property from a
2 retailer exempt from the taxes imposed by this Act. Taxpayers
3 shall maintain all necessary books and records to substantiate
4 the use and consumption of all such tangible personal property
5 outside of the State of Illinois.

6 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
7 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
8 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
9 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
10 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)

11 (35 ILCS 120/1d rep.) (from Ch. 120, par. 440d)

12 (35 ILCS 120/1f rep.) (from Ch. 120, par. 440f)

13 Section 33. The Retailers' Occupation Tax Act is amended by
14 repealing Sections 1d and 1f.

15 Section 35. The Property Tax Code is amended by changing
16 Sections 18-255, 20-15, and 21-30 and by adding Section 18-178
17 as follows:

18 (35 ILCS 200/18-178 new)

19 Sec. 18-178. Education tax abatement. Beginning with taxes
20 levied for 2003 (payable in 2004), the county clerk must
21 determine the final extension for educational purposes for all
22 taxable property in a school district located in the county or
23 for the taxable property of that part of a school district
24 located in the county, taking into account the maximum rate,
25 levy, and extension authorized under the Property Tax Extension
26 Limitation Law, the Truth in Taxation Law, and any other
27 statute. The county clerk must then abate the extension for
28 educational purposes for each school district or part of a
29 school district in the county by the amount of the minimum
30 property tax relief grant and, if applicable, the supplemental
31 property tax relief grant, certified to the county clerk for

1 that school district or part of a school district by the
2 Department of Revenue under Section 6z-65 of the State Finance
3 Act. When the final extension for educational purposes has been
4 determined and abated, the county clerk must notify the
5 Department of Revenue. The county clerk must determine the
6 prorated portion of the certified minimum and, if applicable,
7 supplemental property tax relief grants allocable to each
8 taxpayer in a given school district based on the tax rate for
9 educational purposes for that school district and the aggregate
10 relief granted to that school district. The extension amount
11 for educational purposes, as originally calculated before
12 abatement, is the official, final extension for educational
13 purposes and must be used for all other purposes, including
14 determining the maximum rate, levy, and extension authorized
15 under the Property Tax Extension Limitation Law, the Truth in
16 Taxation Law, and any other statute and the maximum amount of
17 tax anticipation warrants under Sections 17-16 and 34-23 of the
18 School Code.

19 (35 ILCS 200/18-255)

20 Sec. 18-255. Abstract of assessments and extensions. When
21 the collector's books are completed, the county clerk shall
22 make a complete statement of the assessment and extensions, in
23 conformity to the instructions of the Department. The clerk
24 shall certify the statement to the Department. Beginning with
25 the 2003 levy year, the Department shall require the statement
26 to include a separate listing of the amount of any extension
27 that is abated under Section 18-178 of this Act.

28 (Source: Laws 1943, vol. 1, p. 1136; P.A. 88-455.)

29 (35 ILCS 200/20-15)

30 Sec. 20-15. Information on bill or separate statement. The
31 amount of tax due and rates shown on the tax bill pursuant to
32 this Section shall be net of any abatement under Section

1 18-178. There shall be printed on each bill, or on a separate
2 slip which shall be mailed with the bill:

3 (a) a statement itemizing the rate at which taxes have
4 been extended for each of the taxing districts in the
5 county in whose district the property is located, and in
6 those counties utilizing electronic data processing
7 equipment the dollar amount of tax due from the person
8 assessed allocable to each of those taxing districts,
9 including a separate statement of the dollar amount of tax
10 due which is allocable to a tax levied under the Illinois
11 Local Library Act or to any other tax levied by a
12 municipality or township for public library purposes,

13 (b) a separate statement for each of the taxing
14 districts of the dollar amount of tax due which is
15 allocable to a tax levied under the Illinois Pension Code
16 or to any other tax levied by a municipality or township
17 for public pension or retirement purposes,

18 (c) the total tax rate,

19 (d) the total amount of tax due, ~~and~~

20 (e) the amount by which the total tax and the tax
21 allocable to each taxing district differs from the
22 taxpayer's last prior tax bill, and

23 (f) the amount of tax abated under Section 18-178
24 labeled "Portion of your Education Related Property Taxes
25 paid by the State of Illinois".

26 The county treasurer shall ensure that only those taxing
27 districts in which a parcel of property is located shall be
28 listed on the bill for that property.

29 In all counties the statement shall also provide:

30 (1) the property index number or other suitable
31 description,

32 (2) the assessment of the property,

33 (3) the equalization factors imposed by the county and
34 by the Department, and

1 (4) the equalized assessment resulting from the
2 application of the equalization factors to the basic
3 assessment.

4 In all counties which do not classify property for purposes
5 of taxation, for property on which a single family residence is
6 situated the statement shall also include a statement to
7 reflect the fair cash value determined for the property. In all
8 counties which classify property for purposes of taxation in
9 accordance with Section 4 of Article IX of the Illinois
10 Constitution, for parcels of residential property in the lowest
11 assessment classification the statement shall also include a
12 statement to reflect the fair cash value determined for the
13 property.

14 In all counties, the statement shall include information
15 that certain taxpayers may be eligible for the Senior Citizens
16 and Disabled Persons Property Tax Relief and Pharmaceutical
17 Assistance Act and that applications are available from the
18 Illinois Department of Revenue.

19 In counties which use the estimated or accelerated billing
20 methods, these statements shall only be provided with the final
21 installment of taxes due, except that the statement under item
22 (f) shall be included with both installments in those counties
23 under estimated or accelerated billing methods, the first
24 billing showing the amount deducted from the first installment,
25 and the final billing showing the total tax abated for the levy
26 year under Section 18-178. The provisions of this Section
27 create a mandatory statutory duty. They are not merely
28 directory or discretionary. The failure or neglect of the
29 collector to mail the bill, or the failure of the taxpayer to
30 receive the bill, shall not affect the validity of any tax, or
31 the liability for the payment of any tax.

32 (Source: P.A. 91-699, eff. 1-1-01.)

1 Sec. 21-30. Accelerated billing. Except as provided in this
2 Section, Section 9-260, and Section 21-40, in counties with
3 3,000,000 or more inhabitants, by January 31 annually,
4 estimated tax bills setting out the first installment of
5 property taxes for the preceding year, payable in that year,
6 shall be prepared and mailed. The first installment of taxes on
7 the estimated tax bills shall be computed at 50% of the total
8 of each tax bill before the abatement of taxes under Section
9 18-178 for the preceding year, less an estimate of one-half of
10 the minimum school district property tax relief grant for the
11 current year determined based on information available. If,
12 prior to the preparation of the estimated tax bills, a
13 certificate of error has been either approved by a court on or
14 before November 30 of the preceding year or certified pursuant
15 to Section 14-15 on or before November 30 of the preceding
16 year, then the first installment of taxes on the estimated tax
17 bills shall be computed at 50% of the total taxes before the
18 abatement of taxes under Section 18-178 for the preceding year
19 as corrected by the certificate of error, less an estimate of
20 one-half of the minimum school district property tax relief
21 grant for the current year determined based on information
22 available. By June 30 annually, actual tax bills shall be
23 prepared and mailed. These bills shall set out total taxes due
24 and the amount of estimated taxes billed in the first
25 installment, and shall state the balance of taxes due for that
26 year as represented by the sum derived from subtracting the
27 amount of the first installment from the total taxes due for
28 that year.

29 The county board may provide by ordinance, in counties with
30 3,000,000 or more inhabitants, for taxes to be paid in 4
31 installments. For the levy year for which the ordinance is
32 first effective and each subsequent year, estimated tax bills
33 setting out the first, second, and third installment of taxes
34 for the preceding year, payable in that year, shall be prepared

1 and mailed not later than the date specified by ordinance. Each
2 installment on estimated tax bills shall be computed at 25% of
3 the total of each tax bill for the preceding year. By the date
4 specified in the ordinance, actual tax bills shall be prepared
5 and mailed. These bills shall set out total taxes due and the
6 amount of estimated taxes billed in the first, second, and
7 third installments and shall state the balance of taxes due for
8 that year as represented by the sum derived from subtracting
9 the amount of the estimated installments from the total taxes
10 due for that year.

11 The county board of any county with less than 3,000,000
12 inhabitants may, by ordinance or resolution, adopt an
13 accelerated method of tax billing. The county board may
14 subsequently rescind the ordinance or resolution and revert to
15 the method otherwise provided for in this Code.

16 Taxes levied on homestead property in which a member of the
17 National Guard or reserves of the armed forces of the United
18 States who was called to active duty on or after August 1,
19 1990, and who has an ownership interest shall not be deemed
20 delinquent and no interest shall accrue or be charged as a
21 penalty on such taxes due and payable in 1991 or 1992 until one
22 year after that member returns to civilian status.

23 (Source: P.A. 92-475, eff. 8-23-01; 93-560, eff. 8-20-03.)

24 Section 40. The Motor Fuel Tax Law is amended by changing
25 Section 2b as follows:

26 (35 ILCS 505/2b) (from Ch. 120, par. 418b)

27 Sec. 2b. In addition to the tax collection and reporting
28 responsibilities imposed elsewhere in this Act, a person who is
29 required to pay the tax imposed by Section 2a of this Act shall
30 pay the tax to the Department by return showing all fuel
31 purchased, acquired or received and sold, distributed or used
32 during the preceding calendar month including losses of fuel as

1 the result of evaporation or shrinkage due to temperature
2 variations, and such other reasonable information as the
3 Department may require. Losses of fuel as the result of
4 evaporation or shrinkage due to temperature variations may not
5 exceed 1% of the total gallons in storage at the beginning of
6 the month, plus the receipts of gallonage during the month,
7 minus the gallonage remaining in storage at the end of the
8 month. Any loss reported that is in excess of this amount shall
9 be subject to the tax imposed by Section 2a of this Law. On and
10 after July 1, 2001, for each 6-month period January through
11 June, net losses of fuel (for each category of fuel that is
12 required to be reported on a return) as the result of
13 evaporation or shrinkage due to temperature variations may not
14 exceed 1% of the total gallons in storage at the beginning of
15 each January, plus the receipts of gallonage each January
16 through June, minus the gallonage remaining in storage at the
17 end of each June. On and after July 1, 2001, for each 6-month
18 period July through December, net losses of fuel (for each
19 category of fuel that is required to be reported on a return)
20 as the result of evaporation or shrinkage due to temperature
21 variations may not exceed 1% of the total gallons in storage at
22 the beginning of each July, plus the receipts of gallonage each
23 July through December, minus the gallonage remaining in storage
24 at the end of each December. Any net loss reported that is in
25 excess of this amount shall be subject to the tax imposed by
26 Section 2a of this Law. For purposes of this Section, "net
27 loss" means the number of gallons gained through temperature
28 variations minus the number of gallons lost through temperature
29 variations or evaporation for each of the respective 6-month
30 periods.

31 The return shall be prescribed by the Department and shall
32 be filed between the 1st and 20th days of each calendar month.
33 The Department may, in its discretion, combine the returns
34 filed under this Section, Section 5, and Section 5a of this

1 Act. The return must be accompanied by appropriate
2 computer-generated magnetic media supporting schedule data in
3 the format required by the Department, unless, as provided by
4 rule, the Department grants an exception upon petition of a
5 taxpayer. ~~If the return is filed timely, the seller shall take~~
6 ~~a discount of 2% through June 30, 2003 and 1.75% thereafter~~
7 ~~which is allowed to reimburse the seller for the expenses~~
8 ~~incurred in keeping records, preparing and filing returns,~~
9 ~~collecting and remitting the tax and supplying data to the~~
10 ~~Department on request. The discount, however, shall be~~
11 ~~applicable only to the amount of payment which accompanies a~~
12 ~~return that is filed timely in accordance with this Section.~~

13 (Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

14 Section 45. The School Code is amended by changing Section
15 18-8.05 and by adding Sections 18-8.15 and 18-25 as follows:

16 (105 ILCS 5/18-8.05)

17 Sec. 18-8.05. Basis for apportionment of general State
18 financial aid and supplemental general State aid to the common
19 schools for the 1998-1999 and subsequent school years.

20 (A) General Provisions.

21 (1) The provisions of this Section apply to the 1998-1999
22 and subsequent school years. The system of general State
23 financial aid provided for in this Section is designed to
24 assure that, through a combination of State financial aid and
25 required local resources, the financial support provided each
26 pupil in Average Daily Attendance equals or exceeds a
27 prescribed per pupil Foundation Level. This formula approach
28 imputes a level of per pupil Available Local Resources and
29 provides for the basis to calculate a per pupil level of
30 general State financial aid that, when added to Available Local
31 Resources, equals or exceeds the Foundation Level. The amount

1 of per pupil general State financial aid for school districts,
2 in general, varies in inverse relation to Available Local
3 Resources. Per pupil amounts are based upon each school
4 district's Average Daily Attendance as that term is defined in
5 this Section.

6 (2) In addition to general State financial aid, school
7 districts with specified levels or concentrations of pupils
8 from low income households are eligible to receive supplemental
9 general State financial aid grants as provided pursuant to
10 subsection (H). The supplemental State aid grants provided for
11 school districts under subsection (H) shall be appropriated for
12 distribution to school districts as part of the same line item
13 in which the general State financial aid of school districts is
14 appropriated under this Section.

15 (3) To receive financial assistance under this Section,
16 school districts are required to file claims with the State
17 Board of Education, subject to the following requirements:

18 (a) Any school district which fails for any given
19 school year to maintain school as required by law, or to
20 maintain a recognized school is not eligible to file for
21 such school year any claim upon the Common School Fund. In
22 case of nonrecognition of one or more attendance centers in
23 a school district otherwise operating recognized schools,
24 the claim of the district shall be reduced in the
25 proportion which the Average Daily Attendance in the
26 attendance center or centers bear to the Average Daily
27 Attendance in the school district. A "recognized school"
28 means any public school which meets the standards as
29 established for recognition by the State Board of
30 Education. A school district or attendance center not
31 having recognition status at the end of a school term is
32 entitled to receive State aid payments due upon a legal
33 claim which was filed while it was recognized.

34 (b) School district claims filed under this Section are

1 subject to Sections 18-9, 18-10, and 18-12, except as
2 otherwise provided in this Section.

3 (c) If a school district operates a full year school
4 under Section 10-19.1, the general State aid to the school
5 district shall be determined by the State Board of
6 Education in accordance with this Section as near as may be
7 applicable.

8 (c-5) "ECI" means the Employment Cost Index as
9 published by the U.S. Bureau of Labor Statistics.

10 (d) (Blank).

11 (4) Except as provided in subsections (H) and (L), the
12 board of any district receiving any of the grants provided for
13 in this Section may apply those funds to any fund so received
14 for which that board is authorized to make expenditures by law.

15 School districts are not required to exert a minimum
16 Operating Tax Rate in order to qualify for assistance under
17 this Section.

18 (5) As used in this Section the following terms, when
19 capitalized, shall have the meaning ascribed herein:

20 (a) "Average Daily Attendance": A count of pupil
21 attendance in school, averaged as provided for in
22 subsection (C) and utilized in deriving per pupil financial
23 support levels.

24 (b) "Available Local Resources": A computation of
25 local financial support, calculated on the basis of Average
26 Daily Attendance and derived as provided pursuant to
27 subsection (D).

28 (c) "Corporate Personal Property Replacement Taxes":
29 Funds paid to local school districts pursuant to "An Act in
30 relation to the abolition of ad valorem personal property
31 tax and the replacement of revenues lost thereby, and
32 amending and repealing certain Acts and parts of Acts in
33 connection therewith", certified August 14, 1979, as
34 amended (Public Act 81-1st S.S.-1).

1 (d) "Foundation Level": A prescribed level of per pupil
2 financial support as provided for in subsection (B).

3 (e) "Operating Tax Rate": All school district property
4 taxes extended for all purposes, except Bond and Interest,
5 Summer School, Rent, Capital Improvement, and Vocational
6 Education Building purposes.

7 (B) Foundation Level.

8 (1) The Foundation Level is a figure established by the
9 State representing the minimum level of per pupil financial
10 support that should be available to provide for the basic
11 education of each pupil in Average Daily Attendance. As set
12 forth in this Section, each school district is assumed to exert
13 a sufficient local taxing effort such that, in combination with
14 the aggregate of general State financial aid provided the
15 district, an aggregate of State and local resources are
16 available to meet the basic education needs of pupils in the
17 district.

18 (2) For the 1998-1999 school year, the Foundation Level of
19 support is \$4,225. For the 1999-2000 school year, the
20 Foundation Level of support is \$4,325. For the 2000-2001 school
21 year, the Foundation Level of support is \$4,425. For the
22 2001-2002 school year and 2002-2003 school year, the Foundation
23 Level of support is \$4,560. For the 2003-2004 school year, the
24 Foundation Level of support is \$4,810.

25 (3) For the 2004-2005 school year and each school year
26 thereafter, the Foundation Level of support is \$4,964 ~~\$5,060~~ or
27 such greater amount as may be established by law by the General
28 Assembly.

29 (4) For the 2005-2006 school year, the Foundation Level of
30 support is \$6,092. For each school year thereafter, the
31 Foundation Level of support shall be equal to the Foundation
32 Level of support for the immediately preceding school year,
33 increased by the percentage increase, if any, in the ECI

1 published for the immediately preceding school year, or such
2 greater amount as may be established by law by the General
3 Assembly.

4 (C) Average Daily Attendance.

5 (1) For purposes of calculating general State aid pursuant
6 to subsection (E), an Average Daily Attendance figure shall be
7 utilized. The Average Daily Attendance figure for formula
8 calculation purposes shall be the monthly average of the actual
9 number of pupils in attendance of each school district, as
10 further averaged for the best 3 months of pupil attendance for
11 each school district. In compiling the figures for the number
12 of pupils in attendance, school districts and the State Board
13 of Education shall, for purposes of general State aid funding,
14 conform attendance figures to the requirements of subsection
15 (F).

16 (2) The Average Daily Attendance figures utilized in
17 subsection (E) shall be the requisite attendance data for the
18 school year immediately preceding the school year for which
19 general State aid is being calculated or the average of the
20 attendance data for the 3 preceding school years, whichever is
21 greater. The Average Daily Attendance figures utilized in
22 subsection (H) shall be the requisite attendance data for the
23 school year immediately preceding the school year for which
24 general State aid is being calculated.

25 (D) Available Local Resources.

26 (1) For purposes of calculating general State aid pursuant
27 to subsection (E), a representation of Available Local
28 Resources per pupil, as that term is defined and determined in
29 this subsection, shall be utilized. Available Local Resources
30 per pupil shall include a calculated dollar amount representing
31 local school district revenues from local property taxes and
32 from Corporate Personal Property Replacement Taxes, expressed

1 on the basis of pupils in Average Daily Attendance. Calculation
2 of Available Local Resources shall exclude any tax amnesty
3 funds received as a result of Public Act 93-26.

4 (2) In determining a school district's revenue from local
5 property taxes, the State Board of Education shall utilize the
6 equalized assessed valuation of all taxable property of each
7 school district as of September 30 of the previous year. The
8 equalized assessed valuation utilized shall be obtained and
9 determined as provided in subsection (G).

10 (3) For school districts maintaining grades kindergarten
11 through 12, local property tax revenues per pupil shall be
12 calculated as the product of the applicable equalized assessed
13 valuation for the district multiplied by 3.00%, and divided by
14 the district's Average Daily Attendance figure. For school
15 districts maintaining grades kindergarten through 8, local
16 property tax revenues per pupil shall be calculated as the
17 product of the applicable equalized assessed valuation for the
18 district multiplied by 2.30%, and divided by the district's
19 Average Daily Attendance figure. For school districts
20 maintaining grades 9 through 12, local property tax revenues
21 per pupil shall be the applicable equalized assessed valuation
22 of the district multiplied by 1.05%, and divided by the
23 district's Average Daily Attendance figure.

24 (4) The Corporate Personal Property Replacement Taxes paid
25 to each school district during the calendar year 2 years before
26 the calendar year in which a school year begins, divided by the
27 Average Daily Attendance figure for that district, shall be
28 added to the local property tax revenues per pupil as derived
29 by the application of the immediately preceding paragraph (3).
30 The sum of these per pupil figures for each school district
31 shall constitute Available Local Resources as that term is
32 utilized in subsection (E) in the calculation of general State
33 aid.

1 (E) Computation of General State Aid.

2 (1) For each school year, the amount of general State aid
3 allotted to a school district shall be computed by the State
4 Board of Education as provided in this subsection.

5 (2) For any school district for which Available Local
6 Resources per pupil is less than the product of 0.93 times the
7 Foundation Level, general State aid for that district shall be
8 calculated as an amount equal to the Foundation Level minus
9 Available Local Resources, multiplied by the Average Daily
10 Attendance of the school district.

11 (3) For any school district for which Available Local
12 Resources per pupil is equal to or greater than the product of
13 0.93 times the Foundation Level and less than the product of
14 1.75 times the Foundation Level, the general State aid per
15 pupil shall be a decimal proportion of the Foundation Level
16 derived using a linear algorithm. Under this linear algorithm,
17 the calculated general State aid per pupil shall decline in
18 direct linear fashion from 0.07 times the Foundation Level for
19 a school district with Available Local Resources equal to the
20 product of 0.93 times the Foundation Level, to 0.05 times the
21 Foundation Level for a school district with Available Local
22 Resources equal to the product of 1.75 times the Foundation
23 Level. The allocation of general State aid for school districts
24 subject to this paragraph 3 shall be the calculated general
25 State aid per pupil figure multiplied by the Average Daily
26 Attendance of the school district.

27 (4) For any school district for which Available Local
28 Resources per pupil equals or exceeds the product of 1.75 times
29 the Foundation Level, the general State aid for the school
30 district shall be calculated as the product of \$218 multiplied
31 by the Average Daily Attendance of the school district.

32 (5) The amount of general State aid allocated to a school
33 district for the 1999-2000 school year meeting the requirements
34 set forth in paragraph (4) of subsection (G) shall be increased

1 by an amount equal to the general State aid that would have
2 been received by the district for the 1998-1999 school year by
3 utilizing the Extension Limitation Equalized Assessed
4 Valuation as calculated in paragraph (4) of subsection (G) less
5 the general State aid allotted for the 1998-1999 school year.
6 This amount shall be deemed a one time increase, and shall not
7 affect any future general State aid allocations.

8 (F) Compilation of Average Daily Attendance.

9 (1) Each school district shall, by July 1 of each year,
10 submit to the State Board of Education, on forms prescribed by
11 the State Board of Education, attendance figures for the school
12 year that began in the preceding calendar year. The attendance
13 information so transmitted shall identify the average daily
14 attendance figures for each month of the school year. Beginning
15 with the general State aid claim form for the 2002-2003 school
16 year, districts shall calculate Average Daily Attendance as
17 provided in subdivisions (a), (b), and (c) of this paragraph
18 (1).

19 (a) In districts that do not hold year-round classes,
20 days of attendance in August shall be added to the month of
21 September and any days of attendance in June shall be added
22 to the month of May.

23 (b) In districts in which all buildings hold year-round
24 classes, days of attendance in July and August shall be
25 added to the month of September and any days of attendance
26 in June shall be added to the month of May.

27 (c) In districts in which some buildings, but not all,
28 hold year-round classes, for the non-year-round buildings,
29 days of attendance in August shall be added to the month of
30 September and any days of attendance in June shall be added
31 to the month of May. The average daily attendance for the
32 year-round buildings shall be computed as provided in
33 subdivision (b) of this paragraph (1). To calculate the

1 Average Daily Attendance for the district, the average
2 daily attendance for the year-round buildings shall be
3 multiplied by the days in session for the non-year-round
4 buildings for each month and added to the monthly
5 attendance of the non-year-round buildings.

6 Except as otherwise provided in this Section, days of
7 attendance by pupils shall be counted only for sessions of not
8 less than 5 clock hours of school work per day under direct
9 supervision of: (i) teachers, or (ii) non-teaching personnel or
10 volunteer personnel when engaging in non-teaching duties and
11 supervising in those instances specified in subsection (a) of
12 Section 10-22.34 and paragraph 10 of Section 34-18, with pupils
13 of legal school age and in kindergarten and grades 1 through
14 12.

15 Days of attendance by tuition pupils shall be accredited
16 only to the districts that pay the tuition to a recognized
17 school.

18 (2) Days of attendance by pupils of less than 5 clock hours
19 of school shall be subject to the following provisions in the
20 compilation of Average Daily Attendance.

21 (a) Pupils regularly enrolled in a public school for
22 only a part of the school day may be counted on the basis
23 of 1/6 day for every class hour of instruction of 40
24 minutes or more attended pursuant to such enrollment,
25 unless a pupil is enrolled in a block-schedule format of 80
26 minutes or more of instruction, in which case the pupil may
27 be counted on the basis of the proportion of minutes of
28 school work completed each day to the minimum number of
29 minutes that school work is required to be held that day.

30 (b) Days of attendance may be less than 5 clock hours
31 on the opening and closing of the school term, and upon the
32 first day of pupil attendance, if preceded by a day or days
33 utilized as an institute or teachers' workshop.

34 (c) A session of 4 or more clock hours may be counted

1 as a day of attendance upon certification by the regional
2 superintendent, and approved by the State Superintendent
3 of Education to the extent that the district has been
4 forced to use daily multiple sessions.

5 (d) A session of 3 or more clock hours may be counted
6 as a day of attendance (1) when the remainder of the school
7 day or at least 2 hours in the evening of that day is
8 utilized for an in-service training program for teachers,
9 up to a maximum of 5 days per school year of which a
10 maximum of 4 days of such 5 days may be used for
11 parent-teacher conferences, provided a district conducts
12 an in-service training program for teachers which has been
13 approved by the State Superintendent of Education; or, in
14 lieu of 4 such days, 2 full days may be used, in which
15 event each such day may be counted as a day of attendance;
16 and (2) when days in addition to those provided in item (1)
17 are scheduled by a school pursuant to its school
18 improvement plan adopted under Article 34 or its revised or
19 amended school improvement plan adopted under Article 2,
20 provided that (i) such sessions of 3 or more clock hours
21 are scheduled to occur at regular intervals, (ii) the
22 remainder of the school days in which such sessions occur
23 are utilized for in-service training programs or other
24 staff development activities for teachers, and (iii) a
25 sufficient number of minutes of school work under the
26 direct supervision of teachers are added to the school days
27 between such regularly scheduled sessions to accumulate
28 not less than the number of minutes by which such sessions
29 of 3 or more clock hours fall short of 5 clock hours. Any
30 full days used for the purposes of this paragraph shall not
31 be considered for computing average daily attendance. Days
32 scheduled for in-service training programs, staff
33 development activities, or parent-teacher conferences may
34 be scheduled separately for different grade levels and

1 different attendance centers of the district.

2 (e) A session of not less than one clock hour of
3 teaching hospitalized or homebound pupils on-site or by
4 telephone to the classroom may be counted as 1/2 day of
5 attendance, however these pupils must receive 4 or more
6 clock hours of instruction to be counted for a full day of
7 attendance.

8 (f) A session of at least 4 clock hours may be counted
9 as a day of attendance for first grade pupils, and pupils
10 in full day kindergartens, and a session of 2 or more hours
11 may be counted as 1/2 day of attendance by pupils in
12 kindergartens which provide only 1/2 day of attendance.

13 (g) For children with disabilities who are below the
14 age of 6 years and who cannot attend 2 or more clock hours
15 because of their disability or immaturity, a session of not
16 less than one clock hour may be counted as 1/2 day of
17 attendance; however for such children whose educational
18 needs so require a session of 4 or more clock hours may be
19 counted as a full day of attendance.

20 (h) A recognized kindergarten which provides for only
21 1/2 day of attendance by each pupil shall not have more
22 than 1/2 day of attendance counted in any one day. However,
23 kindergartens may count 2 1/2 days of attendance in any 5
24 consecutive school days. When a pupil attends such a
25 kindergarten for 2 half days on any one school day, the
26 pupil shall have the following day as a day absent from
27 school, unless the school district obtains permission in
28 writing from the State Superintendent of Education.
29 Attendance at kindergartens which provide for a full day of
30 attendance by each pupil shall be counted the same as
31 attendance by first grade pupils. Only the first year of
32 attendance in one kindergarten shall be counted, except in
33 case of children who entered the kindergarten in their
34 fifth year whose educational development requires a second

1 year of kindergarten as determined under the rules and
2 regulations of the State Board of Education.

3 (G) Equalized Assessed Valuation Data.

4 (1) For purposes of the calculation of Available Local
5 Resources required pursuant to subsection (D), the State Board
6 of Education shall secure from the Department of Revenue the
7 value as equalized or assessed by the Department of Revenue of
8 all taxable property of every school district, together with
9 (i) the applicable tax rate used in extending taxes for the
10 funds of the district as of September 30 of the previous year
11 and (ii) the limiting rate for all school districts subject to
12 property tax extension limitations as imposed under the
13 Property Tax Extension Limitation Law.

14 The Department of Revenue shall add to the equalized
15 assessed value of all taxable property of each school district
16 situated entirely or partially within a county that is or was
17 subject to the alternative general homestead exemption
18 provisions of Section 15-176 of the Property Tax Code (a) ~~(i)~~
19 an amount equal to the total amount by which the homestead
20 exemption allowed under Section 15-176 of the Property Tax Code
21 for real property situated in that school district exceeds the
22 total amount that would have been allowed in that school
23 district if the maximum reduction under Section 15-176 was (i)
24 \$4,500 in Cook County or \$3,500 in all other counties in tax
25 year 2003 or (ii) \$5,000 in all counties in tax year 2004 and
26 thereafter and (b) ~~(i)~~ an amount equal to the aggregate amount
27 for the taxable year of all additional exemptions under Section
28 15-175 of the Property Tax Code for owners with a household
29 income of \$30,000 or less. The county clerk of any county that
30 is or was subject to the alternative general homestead
31 exemption provisions of Section 15-176 of the Property Tax Code
32 shall annually calculate and certify to the Department of
33 Revenue for each school district all homestead exemption

1 amounts under Section 15-176 of the Property Tax Code and all
2 amounts of additional exemptions under Section 15-175 of the
3 Property Tax Code for owners with a household income of \$30,000
4 or less. It is the intent of this paragraph that if the general
5 homestead exemption for a parcel of property is determined
6 under Section 15-176 of the Property Tax Code rather than
7 Section 15-175, then the calculation of Available Local
8 Resources shall not be affected by the difference, if any,
9 between the amount of the general homestead exemption allowed
10 for that parcel of property under Section 15-176 of the
11 Property Tax Code and the amount that would have been allowed
12 had the general homestead exemption for that parcel of property
13 been determined under Section 15-175 of the Property Tax Code.
14 It is further the intent of this paragraph that if additional
15 exemptions are allowed under Section 15-175 of the Property Tax
16 Code for owners with a household income of less than \$30,000,
17 then the calculation of Available Local Resources shall not be
18 affected by the difference, if any, because of those additional
19 exemptions.

20 This equalized assessed valuation, as adjusted further by
21 the requirements of this subsection, shall be utilized in the
22 calculation of Available Local Resources.

23 (2) The equalized assessed valuation in paragraph (1) shall
24 be adjusted, as applicable, in the following manner:

25 (a) For the purposes of calculating State aid under
26 this Section, with respect to any part of a school district
27 within a redevelopment project area in respect to which a
28 municipality has adopted tax increment allocation
29 financing pursuant to the Tax Increment Allocation
30 Redevelopment Act, Sections 11-74.4-1 through 11-74.4-11
31 of the Illinois Municipal Code or the Industrial Jobs
32 Recovery Law, Sections 11-74.6-1 through 11-74.6-50 of the
33 Illinois Municipal Code, no part of the current equalized
34 assessed valuation of real property located in any such

1 project area which is attributable to an increase above the
2 total initial equalized assessed valuation of such
3 property shall be used as part of the equalized assessed
4 valuation of the district, until such time as all
5 redevelopment project costs have been paid, as provided in
6 Section 11-74.4-8 of the Tax Increment Allocation
7 Redevelopment Act or in Section 11-74.6-35 of the
8 Industrial Jobs Recovery Law. For the purpose of the
9 equalized assessed valuation of the district, the total
10 initial equalized assessed valuation or the current
11 equalized assessed valuation, whichever is lower, shall be
12 used until such time as all redevelopment project costs
13 have been paid.

14 (b) The real property equalized assessed valuation for
15 a school district shall be adjusted by subtracting from the
16 real property value as equalized or assessed by the
17 Department of Revenue for the district an amount computed
18 by dividing the amount of any abatement of taxes under
19 Section 18-170 of the Property Tax Code by 3.00% for a
20 district maintaining grades kindergarten through 12, by
21 2.30% for a district maintaining grades kindergarten
22 through 8, or by 1.05% for a district maintaining grades 9
23 through 12 and adjusted by an amount computed by dividing
24 the amount of any abatement of taxes under subsection (a)
25 of Section 18-165 of the Property Tax Code by the same
26 percentage rates for district type as specified in this
27 subparagraph (b).

28 (3) For the 1999-2000 school year and each school year
29 thereafter, if a school district meets all of the criteria of
30 this subsection (G) (3), the school district's Available Local
31 Resources shall be calculated under subsection (D) using the
32 district's Extension Limitation Equalized Assessed Valuation
33 as calculated under this subsection (G) (3).

34 For purposes of this subsection (G) (3) the following terms

1 shall have the following meanings:

2 "Budget Year": The school year for which general State
3 aid is calculated and awarded under subsection (E).

4 "Base Tax Year": The property tax levy year used to
5 calculate the Budget Year allocation of general State aid.

6 "Preceding Tax Year": The property tax levy year
7 immediately preceding the Base Tax Year.

8 "Base Tax Year's Tax Extension": The product of the
9 equalized assessed valuation utilized by the County Clerk
10 in the Base Tax Year multiplied by the limiting rate as
11 calculated by the County Clerk and defined in the Property
12 Tax Extension Limitation Law.

13 "Preceding Tax Year's Tax Extension": The product of
14 the equalized assessed valuation utilized by the County
15 Clerk in the Preceding Tax Year multiplied by the Operating
16 Tax Rate as defined in subsection (A).

17 "Extension Limitation Ratio": A numerical ratio,
18 certified by the County Clerk, in which the numerator is
19 the Base Tax Year's Tax Extension and the denominator is
20 the Preceding Tax Year's Tax Extension.

21 "Operating Tax Rate": The operating tax rate as defined
22 in subsection (A).

23 If a school district is subject to property tax extension
24 limitations as imposed under the Property Tax Extension
25 Limitation Law, the State Board of Education shall calculate
26 the Extension Limitation Equalized Assessed Valuation of that
27 district. For the 1999-2000 school year, the Extension
28 Limitation Equalized Assessed Valuation of a school district as
29 calculated by the State Board of Education shall be equal to
30 the product of the district's 1996 Equalized Assessed Valuation
31 and the district's Extension Limitation Ratio. For the
32 2000-2001 school year and each school year thereafter, the
33 Extension Limitation Equalized Assessed Valuation of a school
34 district as calculated by the State Board of Education shall be

1 equal to the product of the Equalized Assessed Valuation last
2 used in the calculation of general State aid and the district's
3 Extension Limitation Ratio. If the Extension Limitation
4 Equalized Assessed Valuation of a school district as calculated
5 under this subsection (G)(3) is less than the district's
6 equalized assessed valuation as calculated pursuant to
7 subsections (G)(1) and (G)(2), then for purposes of calculating
8 the district's general State aid for the Budget Year pursuant
9 to subsection (E), that Extension Limitation Equalized
10 Assessed Valuation shall be utilized to calculate the
11 district's Available Local Resources under subsection (D).

12 (4) For the purposes of calculating general State aid for
13 the 1999-2000 school year only, if a school district
14 experienced a triennial reassessment on the equalized assessed
15 valuation used in calculating its general State financial aid
16 apportionment for the 1998-1999 school year, the State Board of
17 Education shall calculate the Extension Limitation Equalized
18 Assessed Valuation that would have been used to calculate the
19 district's 1998-1999 general State aid. This amount shall equal
20 the product of the equalized assessed valuation used to
21 calculate general State aid for the 1997-1998 school year and
22 the district's Extension Limitation Ratio. If the Extension
23 Limitation Equalized Assessed Valuation of the school district
24 as calculated under this paragraph (4) is less than the
25 district's equalized assessed valuation utilized in
26 calculating the district's 1998-1999 general State aid
27 allocation, then for purposes of calculating the district's
28 general State aid pursuant to paragraph (5) of subsection (E),
29 that Extension Limitation Equalized Assessed Valuation shall
30 be utilized to calculate the district's Available Local
31 Resources.

32 (5) For school districts having a majority of their
33 equalized assessed valuation in any county except Cook, DuPage,
34 Kane, Lake, McHenry, or Will, if the amount of general State

1 aid allocated to the school district for the 1999-2000 school
2 year under the provisions of subsection (E), (H), and (J) of
3 this Section is less than the amount of general State aid
4 allocated to the district for the 1998-1999 school year under
5 these subsections, then the general State aid of the district
6 for the 1999-2000 school year only shall be increased by the
7 difference between these amounts. The total payments made under
8 this paragraph (5) shall not exceed \$14,000,000. Claims shall
9 be prorated if they exceed \$14,000,000.

10 (H) Supplemental General State Aid.

11 (1) In addition to the general State aid a school district
12 is allotted pursuant to subsection (E), qualifying school
13 districts shall receive a grant, paid in conjunction with a
14 district's payments of general State aid, for supplemental
15 general State aid based upon the concentration level of
16 children from low-income households within the school
17 district. Supplemental State aid grants provided for school
18 districts under this subsection shall be appropriated for
19 distribution to school districts as part of the same line item
20 in which the general State financial aid of school districts is
21 appropriated under this Section. If the appropriation in any
22 fiscal year for general State aid and supplemental general
23 State aid is insufficient to pay the amounts required under the
24 general State aid and supplemental general State aid
25 calculations, then the State Board of Education shall ensure
26 that each school district receives the full amount due for
27 general State aid and the remainder of the appropriation shall
28 be used for supplemental general State aid, which the State
29 Board of Education shall calculate and pay to eligible
30 districts on a prorated basis.

31 (1.5) This paragraph (1.5) applies only to those school
32 years preceding the 2003-2004 school year. For purposes of this
33 subsection (H), the term "Low-Income Concentration Level"

1 shall be the low-income eligible pupil count from the most
2 recently available federal census divided by the Average Daily
3 Attendance of the school district. If, however, (i) the
4 percentage decrease from the 2 most recent federal censuses in
5 the low-income eligible pupil count of a high school district
6 with fewer than 400 students exceeds by 75% or more the
7 percentage change in the total low-income eligible pupil count
8 of contiguous elementary school districts, whose boundaries
9 are coterminous with the high school district, or (ii) a high
10 school district within 2 counties and serving 5 elementary
11 school districts, whose boundaries are coterminous with the
12 high school district, has a percentage decrease from the 2 most
13 recent federal censuses in the low-income eligible pupil count
14 and there is a percentage increase in the total low-income
15 eligible pupil count of a majority of the elementary school
16 districts in excess of 50% from the 2 most recent federal
17 censuses, then the high school district's low-income eligible
18 pupil count from the earlier federal census shall be the number
19 used as the low-income eligible pupil count for the high school
20 district, for purposes of this subsection (H). The changes made
21 to this paragraph (1) by Public Act 92-28 shall apply to
22 supplemental general State aid grants for school years
23 preceding the 2003-2004 school year that are paid in fiscal
24 year 1999 or thereafter and to any State aid payments made in
25 fiscal year 1994 through fiscal year 1998 pursuant to
26 subsection 1(n) of Section 18-8 of this Code (which was
27 repealed on July 1, 1998), and any high school district that is
28 affected by Public Act 92-28 is entitled to a recomputation of
29 its supplemental general State aid grant or State aid paid in
30 any of those fiscal years. This recomputation shall not be
31 affected by any other funding.

32 (1.10) This paragraph (1.10) applies to the 2003-2004
33 school year and each school year thereafter. For purposes of
34 this subsection (H), the term "Low-Income Concentration Level"

1 shall, for each fiscal year, be the low-income eligible pupil
2 count as of July 1 of the immediately preceding fiscal year (as
3 determined by the Department of Human Services based on the
4 number of pupils who are eligible for at least one of the
5 following low income programs: Medicaid, KidCare, TANF, or Food
6 Stamps, excluding pupils who are eligible for services provided
7 by the Department of Children and Family Services, averaged
8 over the 2 immediately preceding fiscal years for fiscal year
9 2004 and over the 3 immediately preceding fiscal years for each
10 fiscal year thereafter) divided by the Average Daily Attendance
11 of the school district.

12 (2) Supplemental general State aid pursuant to this
13 subsection (H) shall be provided as follows for the 1998-1999,
14 1999-2000, and 2000-2001 school years only:

15 (a) For any school district with a Low Income
16 Concentration Level of at least 20% and less than 35%, the
17 grant for any school year shall be \$800 multiplied by the
18 low income eligible pupil count.

19 (b) For any school district with a Low Income
20 Concentration Level of at least 35% and less than 50%, the
21 grant for the 1998-1999 school year shall be \$1,100
22 multiplied by the low income eligible pupil count.

23 (c) For any school district with a Low Income
24 Concentration Level of at least 50% and less than 60%, the
25 grant for the 1998-99 school year shall be \$1,500
26 multiplied by the low income eligible pupil count.

27 (d) For any school district with a Low Income
28 Concentration Level of 60% or more, the grant for the
29 1998-99 school year shall be \$1,900 multiplied by the low
30 income eligible pupil count.

31 (e) For the 1999-2000 school year, the per pupil amount
32 specified in subparagraphs (b), (c), and (d) immediately
33 above shall be increased to \$1,243, \$1,600, and \$2,000,
34 respectively.

1 (f) For the 2000-2001 school year, the per pupil
2 amounts specified in subparagraphs (b), (c), and (d)
3 immediately above shall be \$1,273, \$1,640, and \$2,050,
4 respectively.

5 (2.5) Supplemental general State aid pursuant to this
6 subsection (H) shall be provided as follows for the 2002-2003
7 school year:

8 (a) For any school district with a Low Income
9 Concentration Level of less than 10%, the grant for each
10 school year shall be \$355 multiplied by the low income
11 eligible pupil count.

12 (b) For any school district with a Low Income
13 Concentration Level of at least 10% and less than 20%, the
14 grant for each school year shall be \$675 multiplied by the
15 low income eligible pupil count.

16 (c) For any school district with a Low Income
17 Concentration Level of at least 20% and less than 35%, the
18 grant for each school year shall be \$1,330 multiplied by
19 the low income eligible pupil count.

20 (d) For any school district with a Low Income
21 Concentration Level of at least 35% and less than 50%, the
22 grant for each school year shall be \$1,362 multiplied by
23 the low income eligible pupil count.

24 (e) For any school district with a Low Income
25 Concentration Level of at least 50% and less than 60%, the
26 grant for each school year shall be \$1,680 multiplied by
27 the low income eligible pupil count.

28 (f) For any school district with a Low Income
29 Concentration Level of 60% or more, the grant for each
30 school year shall be \$2,080 multiplied by the low income
31 eligible pupil count.

32 (2.10) Except as otherwise provided, supplemental general
33 State aid pursuant to this subsection (H) shall be provided as
34 follows for the 2003-2004 school year and each school year

1 thereafter:

2 (a) For any school district with a Low Income
3 Concentration Level of 15% or less, the grant for the
4 2003-2004 school year and 2004-2005 ~~each~~ school year shall
5 be \$355 multiplied by the low income eligible pupil count .
6 For the 2005-2006 school year and each school year
7 thereafter, the grant shall be \$355, increased by the
8 percentage increase, if any, in the ECI published for the
9 immediately preceding school year, and then multiplied by
10 the low income eligible pupil count.

11 (b) For any school district with a Low Income
12 Concentration Level greater than 15%, the grant for the
13 2003-2004 school year and 2004-2005 ~~each~~ school year shall
14 be \$294.25 added to the product of \$2,700 and the square of
15 the Low Income Concentration Level, all multiplied by the
16 low income eligible pupil count. For the 2005-2006 school
17 year and each school year thereafter, the grant shall be
18 \$294.25, increased by the percentage increase, if any, in
19 the ECI published for the immediately preceding school
20 year, then added to the product of (i) \$2,700, which amount
21 shall be increased by the percentage increase, if any, in
22 the ECI published for the immediately preceding school
23 year, and (ii) the square of the Low Income Concentration
24 Level, and then all multiplied by the low income eligible
25 pupil count.

26 For the 2003-2004 and 2004-2005 school year only, the grant
27 shall be no less than the grant for the 2002-2003 school year.
28 For the 2005-2006 school year only, the grant shall be no less
29 than the grant for the 2002-2003 school year multiplied by
30 0.66. For the 2006-2007 school year only, the grant shall be no
31 less than the grant for the 2002-2003 school year multiplied by
32 0.33.

33 For the 2003-2004 school year only, the grant shall be no
34 greater than the grant received during the 2002-2003 school

1 year added to the product of 0.25 multiplied by the difference
2 between the grant amount calculated under subsection (a) or (b)
3 of this paragraph (2.10), whichever is applicable, and the
4 grant received during the 2002-2003 school year. For the
5 2004-2005 school year only, the grant shall be no greater than
6 the grant received during the 2002-2003 school year added to
7 the product of 0.50 multiplied by the difference between the
8 grant amount calculated under subsection (a) or (b) of this
9 paragraph (2.10), whichever is applicable, and the grant
10 received during the 2002-2003 school year. For the 2005-2006
11 school year only, the grant shall be no greater than the grant
12 received during the 2002-2003 school year added to the product
13 of 0.75 multiplied by the difference between the grant amount
14 calculated under subsection (a) or (b) of this paragraph
15 (2.10), whichever is applicable, and the grant received during
16 the 2002-2003 school year.

17 (3) School districts with an Average Daily Attendance of
18 more than 1,000 and less than 50,000 that qualify for
19 supplemental general State aid pursuant to this subsection
20 shall submit a plan to the State Board of Education prior to
21 October 30 of each year for the use of the funds resulting from
22 this grant of supplemental general State aid for the
23 improvement of instruction in which priority is given to
24 meeting the education needs of disadvantaged children. Such
25 plan shall be submitted in accordance with rules and
26 regulations promulgated by the State Board of Education.

27 (4) School districts with an Average Daily Attendance of
28 50,000 or more that qualify for supplemental general State aid
29 pursuant to this subsection shall be required to distribute
30 from funds available pursuant to this Section, no less than
31 \$261,000,000 in accordance with the following requirements:

32 (a) The required amounts shall be distributed to the
33 attendance centers within the district in proportion to the
34 number of pupils enrolled at each attendance center who are

1 eligible to receive free or reduced-price lunches or
2 breakfasts under the federal Child Nutrition Act of 1966
3 and under the National School Lunch Act during the
4 immediately preceding school year.

5 (b) The distribution of these portions of supplemental
6 and general State aid among attendance centers according to
7 these requirements shall not be compensated for or
8 contravened by adjustments of the total of other funds
9 appropriated to any attendance centers, and the Board of
10 Education shall utilize funding from one or several sources
11 in order to fully implement this provision annually prior
12 to the opening of school.

13 (c) Each attendance center shall be provided by the
14 school district a distribution of noncategorical funds and
15 other categorical funds to which an attendance center is
16 entitled under law in order that the general State aid and
17 supplemental general State aid provided by application of
18 this subsection supplements rather than supplants the
19 noncategorical funds and other categorical funds provided
20 by the school district to the attendance centers.

21 (d) Any funds made available under this subsection that
22 by reason of the provisions of this subsection are not
23 required to be allocated and provided to attendance centers
24 may be used and appropriated by the board of the district
25 for any lawful school purpose.

26 (e) Funds received by an attendance center pursuant to
27 this subsection shall be used by the attendance center at
28 the discretion of the principal and local school council
29 for programs to improve educational opportunities at
30 qualifying schools through the following programs and
31 services: early childhood education, reduced class size or
32 improved adult to student classroom ratio, enrichment
33 programs, remedial assistance, attendance improvement, and
34 other educationally beneficial expenditures which

1 supplement the regular and basic programs as determined by
2 the State Board of Education. Funds provided shall not be
3 expended for any political or lobbying purposes as defined
4 by board rule.

5 (f) Each district subject to the provisions of this
6 subdivision (H)(4) shall submit an acceptable plan to meet
7 the educational needs of disadvantaged children, in
8 compliance with the requirements of this paragraph, to the
9 State Board of Education prior to July 15 of each year.
10 This plan shall be consistent with the decisions of local
11 school councils concerning the school expenditure plans
12 developed in accordance with part 4 of Section 34-2.3. The
13 State Board shall approve or reject the plan within 60 days
14 after its submission. If the plan is rejected, the district
15 shall give written notice of intent to modify the plan
16 within 15 days of the notification of rejection and then
17 submit a modified plan within 30 days after the date of the
18 written notice of intent to modify. Districts may amend
19 approved plans pursuant to rules promulgated by the State
20 Board of Education.

21 Upon notification by the State Board of Education that
22 the district has not submitted a plan prior to July 15 or a
23 modified plan within the time period specified herein, the
24 State aid funds affected by that plan or modified plan
25 shall be withheld by the State Board of Education until a
26 plan or modified plan is submitted.

27 If the district fails to distribute State aid to
28 attendance centers in accordance with an approved plan, the
29 plan for the following year shall allocate funds, in
30 addition to the funds otherwise required by this
31 subsection, to those attendance centers which were
32 underfunded during the previous year in amounts equal to
33 such underfunding.

34 For purposes of determining compliance with this

1 subsection in relation to the requirements of attendance
2 center funding, each district subject to the provisions of
3 this subsection shall submit as a separate document by
4 December 1 of each year a report of expenditure data for
5 the prior year in addition to any modification of its
6 current plan. If it is determined that there has been a
7 failure to comply with the expenditure provisions of this
8 subsection regarding contravention or supplanting, the
9 State Superintendent of Education shall, within 60 days of
10 receipt of the report, notify the district and any affected
11 local school council. The district shall within 45 days of
12 receipt of that notification inform the State
13 Superintendent of Education of the remedial or corrective
14 action to be taken, whether by amendment of the current
15 plan, if feasible, or by adjustment in the plan for the
16 following year. Failure to provide the expenditure report
17 or the notification of remedial or corrective action in a
18 timely manner shall result in a withholding of the affected
19 funds.

20 The State Board of Education shall promulgate rules and
21 regulations to implement the provisions of this
22 subsection. No funds shall be released under this
23 subdivision (H) (4) to any district that has not submitted a
24 plan that has been approved by the State Board of
25 Education.

26 (I) General State Aid for Newly Configured School Districts.

27 (1) For a new school district formed by combining property
28 included totally within 2 or more previously existing school
29 districts, for its first year of existence the general State
30 aid and supplemental general State aid calculated under this
31 Section shall be computed for the new district and for the
32 previously existing districts for which property is totally
33 included within the new district. If the computation on the

1 basis of the previously existing districts is greater, a
2 supplementary payment equal to the difference shall be made for
3 the first 4 years of existence of the new district.

4 (2) For a school district which annexes all of the
5 territory of one or more entire other school districts, for the
6 first year during which the change of boundaries attributable
7 to such annexation becomes effective for all purposes as
8 determined under Section 7-9 or 7A-8, the general State aid and
9 supplemental general State aid calculated under this Section
10 shall be computed for the annexing district as constituted
11 after the annexation and for the annexing and each annexed
12 district as constituted prior to the annexation; and if the
13 computation on the basis of the annexing and annexed districts
14 as constituted prior to the annexation is greater, a
15 supplementary payment equal to the difference shall be made for
16 the first 4 years of existence of the annexing school district
17 as constituted upon such annexation.

18 (3) For 2 or more school districts which annex all of the
19 territory of one or more entire other school districts, and for
20 2 or more community unit districts which result upon the
21 division (pursuant to petition under Section 11A-2) of one or
22 more other unit school districts into 2 or more parts and which
23 together include all of the parts into which such other unit
24 school district or districts are so divided, for the first year
25 during which the change of boundaries attributable to such
26 annexation or division becomes effective for all purposes as
27 determined under Section 7-9 or 11A-10, as the case may be, the
28 general State aid and supplemental general State aid calculated
29 under this Section shall be computed for each annexing or
30 resulting district as constituted after the annexation or
31 division and for each annexing and annexed district, or for
32 each resulting and divided district, as constituted prior to
33 the annexation or division; and if the aggregate of the general
34 State aid and supplemental general State aid as so computed for

1 the annexing or resulting districts as constituted after the
2 annexation or division is less than the aggregate of the
3 general State aid and supplemental general State aid as so
4 computed for the annexing and annexed districts, or for the
5 resulting and divided districts, as constituted prior to the
6 annexation or division, then a supplementary payment equal to
7 the difference shall be made and allocated between or among the
8 annexing or resulting districts, as constituted upon such
9 annexation or division, for the first 4 years of their
10 existence. The total difference payment shall be allocated
11 between or among the annexing or resulting districts in the
12 same ratio as the pupil enrollment from that portion of the
13 annexed or divided district or districts which is annexed to or
14 included in each such annexing or resulting district bears to
15 the total pupil enrollment from the entire annexed or divided
16 district or districts, as such pupil enrollment is determined
17 for the school year last ending prior to the date when the
18 change of boundaries attributable to the annexation or division
19 becomes effective for all purposes. The amount of the total
20 difference payment and the amount thereof to be allocated to
21 the annexing or resulting districts shall be computed by the
22 State Board of Education on the basis of pupil enrollment and
23 other data which shall be certified to the State Board of
24 Education, on forms which it shall provide for that purpose, by
25 the regional superintendent of schools for each educational
26 service region in which the annexing and annexed districts, or
27 resulting and divided districts are located.

28 (3.5) Claims for financial assistance under this
29 subsection (I) shall not be recomputed except as expressly
30 provided under this Section.

31 (4) Any supplementary payment made under this subsection
32 (I) shall be treated as separate from all other payments made
33 pursuant to this Section.

1 (J) Supplementary Grants in Aid.

2 (1) Notwithstanding any other provisions of this Section,
3 the amount of the aggregate general State aid in combination
4 with supplemental general State aid under this Section for
5 which each school district is eligible shall be no less than
6 the amount of the aggregate general State aid entitlement that
7 was received by the district under Section 18-8 (exclusive of
8 amounts received under subsections 5(p) and 5(p-5) of that
9 Section) for the 1997-98 school year, pursuant to the
10 provisions of that Section as it was then in effect. If a
11 school district qualifies to receive a supplementary payment
12 made under this subsection (J), the amount of the aggregate
13 general State aid in combination with supplemental general
14 State aid under this Section which that district is eligible to
15 receive for each school year shall be no less than the amount
16 of the aggregate general State aid entitlement that was
17 received by the district under Section 18-8 (exclusive of
18 amounts received under subsections 5(p) and 5(p-5) of that
19 Section) for the 1997-1998 school year, pursuant to the
20 provisions of that Section as it was then in effect.

21 (2) If, as provided in paragraph (1) of this subsection
22 (J), a school district is to receive aggregate general State
23 aid in combination with supplemental general State aid under
24 this Section for the 1998-99 school year and any subsequent
25 school year that in any such school year is less than the
26 amount of the aggregate general State aid entitlement that the
27 district received for the 1997-98 school year, the school
28 district shall also receive, from a separate appropriation made
29 for purposes of this subsection (J), a supplementary payment
30 that is equal to the amount of the difference in the aggregate
31 State aid figures as described in paragraph (1).

32 (3) (Blank).

33 (K) Grants to Laboratory and Alternative Schools.

1 In calculating the amount to be paid to the governing board
2 of a public university that operates a laboratory school under
3 this Section or to any alternative school that is operated by a
4 regional superintendent of schools, the State Board of
5 Education shall require by rule such reporting requirements as
6 it deems necessary.

7 As used in this Section, "laboratory school" means a public
8 school which is created and operated by a public university and
9 approved by the State Board of Education. The governing board
10 of a public university which receives funds from the State
11 Board under this subsection (K) may not increase the number of
12 students enrolled in its laboratory school from a single
13 district, if that district is already sending 50 or more
14 students, except under a mutual agreement between the school
15 board of a student's district of residence and the university
16 which operates the laboratory school. A laboratory school may
17 not have more than 1,000 students, excluding students with
18 disabilities in a special education program.

19 As used in this Section, "alternative school" means a
20 public school which is created and operated by a Regional
21 Superintendent of Schools and approved by the State Board of
22 Education. Such alternative schools may offer courses of
23 instruction for which credit is given in regular school
24 programs, courses to prepare students for the high school
25 equivalency testing program or vocational and occupational
26 training. A regional superintendent of schools may contract
27 with a school district or a public community college district
28 to operate an alternative school. An alternative school serving
29 more than one educational service region may be established by
30 the regional superintendents of schools of the affected
31 educational service regions. An alternative school serving
32 more than one educational service region may be operated under
33 such terms as the regional superintendents of schools of those
34 educational service regions may agree.

1 Each laboratory and alternative school shall file, on forms
2 provided by the State Superintendent of Education, an annual
3 State aid claim which states the Average Daily Attendance of
4 the school's students by month. The best 3 months' Average
5 Daily Attendance shall be computed for each school. The general
6 State aid entitlement shall be computed by multiplying the
7 applicable Average Daily Attendance by the Foundation Level as
8 determined under this Section.

9 (L) Payments, Additional Grants in Aid and Other Requirements.

10 (1) For a school district operating under the financial
11 supervision of an Authority created under Article 34A, the
12 general State aid otherwise payable to that district under this
13 Section, but not the supplemental general State aid, shall be
14 reduced by an amount equal to the budget for the operations of
15 the Authority as certified by the Authority to the State Board
16 of Education, and an amount equal to such reduction shall be
17 paid to the Authority created for such district for its
18 operating expenses in the manner provided in Section 18-11. The
19 remainder of general State school aid for any such district
20 shall be paid in accordance with Article 34A when that Article
21 provides for a disposition other than that provided by this
22 Article.

23 (2) (Blank).

24 (3) Summer school. Summer school payments shall be made as
25 provided in Section 18-4.3.

26 (M) Education Funding Advisory Board.

27 The Education Funding Advisory Board, hereinafter in this
28 subsection (M) referred to as the "Board", is hereby created.
29 The Board shall consist of 5 members who are appointed by the
30 Governor, by and with the advice and consent of the Senate. The
31 members appointed shall include representatives of education,
32 business, and the general public. One of the members so

1 appointed shall be designated by the Governor at the time the
2 appointment is made as the chairperson of the Board. The
3 initial members of the Board may be appointed any time after
4 the effective date of this amendatory Act of 1997. The regular
5 term of each member of the Board shall be for 4 years from the
6 third Monday of January of the year in which the term of the
7 member's appointment is to commence, except that of the 5
8 initial members appointed to serve on the Board, the member who
9 is appointed as the chairperson shall serve for a term that
10 commences on the date of his or her appointment and expires on
11 the third Monday of January, 2002, and the remaining 4 members,
12 by lots drawn at the first meeting of the Board that is held
13 after all 5 members are appointed, shall determine 2 of their
14 number to serve for terms that commence on the date of their
15 respective appointments and expire on the third Monday of
16 January, 2001, and 2 of their number to serve for terms that
17 commence on the date of their respective appointments and
18 expire on the third Monday of January, 2000. All members
19 appointed to serve on the Board shall serve until their
20 respective successors are appointed and confirmed. Vacancies
21 shall be filled in the same manner as original appointments. If
22 a vacancy in membership occurs at a time when the Senate is not
23 in session, the Governor shall make a temporary appointment
24 until the next meeting of the Senate, when he or she shall
25 appoint, by and with the advice and consent of the Senate, a
26 person to fill that membership for the unexpired term. If the
27 Senate is not in session when the initial appointments are
28 made, those appointments shall be made as in the case of
29 vacancies.

30 The Education Funding Advisory Board shall be deemed
31 established, and the initial members appointed by the Governor
32 to serve as members of the Board shall take office, on the date
33 that the Governor makes his or her appointment of the fifth
34 initial member of the Board, whether those initial members are

1 then serving pursuant to appointment and confirmation or
2 pursuant to temporary appointments that are made by the
3 Governor as in the case of vacancies.

4 The State Board of Education shall provide such staff
5 assistance to the Education Funding Advisory Board as is
6 reasonably required for the proper performance by the Board of
7 its responsibilities.

8 For school years after the 2000-2001 school year, the
9 Education Funding Advisory Board, in consultation with the
10 State Board of Education, shall make recommendations as
11 provided in this subsection (M) to the General Assembly for the
12 foundation level under subsection(B) ~~subdivision (B)(3)~~ of
13 this Section and for the supplemental general State aid grant
14 level under subsection (H) of this Section for districts with
15 high concentrations of children from poverty. The recommended
16 foundation level shall be determined based on a methodology
17 which incorporates the basic education expenditures of
18 low-spending schools exhibiting high academic performance. The
19 Education Funding Advisory Board shall make such
20 recommendations to the General Assembly on January 1 of odd
21 numbered years, beginning January 1, 2001.

22 (N) (Blank).

23 (O) References.

24 (1) References in other laws to the various subdivisions of
25 Section 18-8 as that Section existed before its repeal and
26 replacement by this Section 18-8.05 shall be deemed to refer to
27 the corresponding provisions of this Section 18-8.05, to the
28 extent that those references remain applicable.

29 (2) References in other laws to State Chapter 1 funds shall
30 be deemed to refer to the supplemental general State aid
31 provided under subsection (H) of this Section.

1 (P) Public Act 93-838 ~~This amendatory Act of the 93rd General~~
2 ~~Assembly~~ and Public Act 93-808 ~~House Bill 4266 of the 93rd~~
3 ~~General Assembly~~ make inconsistent changes to this Section. ~~If~~
4 ~~House Bill 4266 becomes law, then~~ Under Section 6 of the
5 Statute on Statutes there is an irreconcilable conflict between
6 Public Act 93-808 and Public Act 93-838 ~~House Bill 4266 and~~
7 ~~this amendatory Act.~~ Public Act 93-838 ~~This amendatory Act,~~
8 being the last acted upon, is controlling. The text of Public
9 Act 93-838 ~~this amendatory Act~~ is the law regardless of the
10 text of Public Act 93-808 ~~House Bill 4266~~.

11 (Source: P.A. 92-16, eff. 6-28-01; 92-28, eff. 7-1-01; 92-29,
12 eff. 7-1-01; 92-269, eff. 8-7-01; 92-604, eff. 7-1-02; 92-636,
13 eff. 7-11-02; 92-651, eff. 7-11-02; 93-21, eff. 7-1-03; 93-715,
14 eff. 7-12-04; 93-808, eff. 7-26-04; 93-838, eff. 7-30-04;
15 93-875, eff. 8-6-04; revised 10-21-04.)

16 (105 ILCS 5/18-8.15 new)

17 Sec. 18-8.15. Supplemental State aid for rapidly expanding
18 school districts.

19 (a) If there has been an increase in a school district's
20 student population over any 2 consecutive school years of (i)
21 over 1.5% in a district with 10,000 or more pupils in average
22 daily attendance, as defined in Section 18-8.05 of this Code,
23 or (ii) over 10% in any other district, then, subject to
24 appropriation, the district is eligible for a grant under this
25 Section.

26 (b) The State Board of Education shall determine a per
27 pupil grant amount for each school district based on the needs
28 of each district. The total grant amount for a district for any
29 given school year shall equal the per pupil grant amount
30 multiplied by the difference between the number of pupils in
31 average daily attendance for the first 3 months of the school
32 year and the number of pupils in average daily attendance for
33 the immediately preceding school year.

1 (c) Each fiscal year, the General Assembly shall
2 appropriate at least \$40 million of the aggregate Common School
3 Fund appropriation to funding supplemental grants under this
4 Section. Funds for grants under this Section must be
5 appropriated to the State Board of Education in a separate line
6 item for this purpose. As soon as possible after funds have
7 been appropriated to the State Board of Education, the State
8 Board of Education shall distribute the grants to eligible
9 districts.

10 (d) If a school district intentionally reports incorrect
11 average daily attendance numbers to receive a grant under this
12 Section, then the district shall be denied State aid for
13 intentional incorrect reporting of average daily attendance
14 numbers under Section 18-8.05 of this Code.

15 (e) The State Board of Education may adopt any rules
16 necessary to implement this Section.

17 (105 ILCS 5/18-25 new)

18 Sec. 18-25. Education appropriation minimum. At a minimum,
19 the General Assembly shall appropriate to the Common School
20 Fund for fiscal year 2006 and each fiscal year thereafter, an
21 amount equal to the following (the "Education Appropriation
22 Minimum"):

23 (1) For fiscal year 2006, a total appropriation equal
24 to the sum of (A) all amounts appropriated to the Common
25 School Fund for fiscal year 2005, plus (B) the amount
26 necessary to increase the Foundation Level of support per
27 student to \$6,092 under Section 19-9.05 of this Code, plus
28 (C) \$2.4 billion to fund the School District Property Tax
29 Relief Fund described in Section 6z-65 of the State Finance
30 Act, plus (D) the amounts necessary to fund 100% of school
31 district reimbursement claims for each of the following:

32 (i) children requiring extraordinary special
33 services and facilities as described in Section

1 14-7.02a of this Code;

2 (ii) staff to serve children and youth with
3 disabilities as described in Section 14-13.01 of this
4 Code;

5 (iii) children attending private schools, public
6 out-of-state schools, public school residential
7 facilities or private special education facilities as
8 described in Section 14-7.02 of this Code;

9 (vi) summer school grants for students with
10 disabilities as described under Section 18-4.3 of this
11 Code;

12 (v) transportation for students with disabilities
13 who have special transportation needs as described in
14 Sections 14-13.01(b) and 29-5 of this Code; plus

15 (2) For each fiscal year thereafter, a total
16 appropriation equal to (A) the Education Appropriation
17 Minimum for the immediately preceding fiscal year,
18 increased by the percentage increase, if any, in the
19 Employment Cost Index (Total Compensation, State and
20 Government workers, 3rd Quarter) published by the U.S.
21 Bureau of Labor Statistics for the immediately preceding
22 fiscal year, or (B) such greater amount as the General
23 Assembly may appropriate.

24 (3) If the General Assembly fails to make
25 appropriations to the State Board of Education in fiscal
26 year 2006 or in any fiscal year thereafter sufficient to
27 fund the Education Appropriation Minimum set forth above,
28 the State Superintendent of Schools and the Attorney
29 General for the State of Illinois shall each have the
30 authority at his or her own instance or in response to a
31 written request from a school superintendent or local
32 school board, to demand directly from the State Comptroller
33 an amount necessary to fund the Education Appropriation
34 Minimum in full and the State Comptroller shall satisfy

1 that demand within 30 days after the demand is made.

2 Section 50. The Public Community College Act is amended by
3 changing Section 2-16.02 as follows:

4 (110 ILCS 805/2-16.02) (from Ch. 122, par. 102-16.02)

5 Sec. 2-16.02. Grants. Any community college district that
6 maintains a community college recognized by the State Board
7 shall receive, when eligible, grants enumerated in this
8 Section. Funded semester credit hours or other measures or both
9 as specified by the State Board shall be used to distribute
10 grants to community colleges. Funded semester credit hours
11 shall be defined, for purposes of this Section, as the greater
12 of (1) the number of semester credit hours, or equivalent, in
13 all funded instructional categories of students who have been
14 certified as being in attendance at midterm during the
15 respective terms of the base fiscal year or (2) the average of
16 semester credit hours, or equivalent, in all funded
17 instructional categories of students who have been certified as
18 being in attendance at midterm during the respective terms of
19 the base fiscal year and the 2 prior fiscal years. For purposes
20 of this Section, "base fiscal year" means the fiscal year 2
21 years prior to the fiscal year for which the grants are
22 appropriated. Such students shall have been residents of
23 Illinois and shall have been enrolled in courses that are part
24 of instructional program categories approved by the State Board
25 and that are applicable toward an associate degree or
26 certificate. Courses that are eligible for reimbursement are
27 those courses for which the district pays 50% or more of the
28 program costs from unrestricted revenue sources, with the
29 exception of courses offered by contract with the Department of
30 Corrections in correctional institutions. For the purposes of
31 this Section, "unrestricted revenue sources" means those
32 revenues in which the provider of the revenue imposes no

1 financial limitations upon the district as it relates to the
2 expenditure of the funds. Base operating grants shall be paid
3 based on rates per funded semester credit hour or equivalent
4 calculated by the State Board for funded instructional
5 categories using cost of instruction, enrollment, inflation,
6 and other relevant factors. A portion of the base operating
7 grant shall be allocated on the basis of non-residential gross
8 square footage of space maintained by the district.

9 Supplemental base operating grants shall be paid from the
10 Higher Education Supplemental Assistance Fund based on rates
11 per funded semester credit hour or equivalent calculated by the
12 State Board for funded instructional categories using cost of
13 instruction, enrollment, inflation, and other relevant
14 factors. A portion of the supplemental base operating grant
15 shall be allocated on the basis of non-residential gross square
16 footage of space maintained by districts.

17 Equalization grants shall be calculated by the State Board
18 by determining a local revenue factor for each district by: (A)
19 adding (1) each district's Corporate Personal Property
20 Replacement Fund allocations from the base fiscal year or the
21 average of the base fiscal year and prior year, whichever is
22 less, divided by the applicable statewide average tax rate to
23 (2) the district's most recently audited year's equalized
24 assessed valuation or the average of the most recently audited
25 year and prior year, whichever is less, (B) then dividing by
26 the district's audited full-time equivalent resident students
27 for the base fiscal year or the average for the base fiscal
28 year and the 2 prior fiscal years, whichever is greater, and
29 (C) then multiplying by the applicable statewide average tax
30 rate. The State Board shall calculate a statewide weighted
31 average threshold by applying the same methodology to the
32 totals of all districts' Corporate Personal Property Tax
33 Replacement Fund allocations, equalized assessed valuations,
34 and audited full-time equivalent district resident students

1 and multiplying by the applicable statewide average tax rate.
2 The difference between the statewide weighted average
3 threshold and the local revenue factor, multiplied by the
4 number of full-time equivalent resident students, shall
5 determine the amount of equalization funding that each district
6 is eligible to receive. A percentage factor, as determined by
7 the State Board, may be applied to the statewide threshold as a
8 method for allocating equalization funding. A minimum
9 equalization grant of an amount per district as determined by
10 the State Board shall be established for any community college
11 district which qualifies for an equalization grant based upon
12 the preceding criteria, but becomes ineligible for
13 equalization funding, or would have received a grant of less
14 than the minimum equalization grant, due to threshold
15 prorations applied to reduce equalization funding. As of July
16 1, 2004, a community college district must maintain a minimum
17 required combined in-district tuition and universal fee rate
18 per semester credit hour equal to 85% of the State-average
19 combined rate, as determined by the State Board, for
20 equalization funding. As of July 1, 2004, a community college
21 district must maintain a minimum required operating tax rate
22 equal to at least 95% of its maximum authorized tax rate to
23 qualify for equalization funding. This 95% minimum tax rate
24 requirement shall be based upon the maximum operating tax rate
25 as limited by the Property Tax Extension Limitation Law.

26 The State Board shall distribute such other grants as may
27 be authorized or appropriated by the General Assembly.

28 Each community college district entitled to State grants
29 under this Section must submit a report of its enrollment to
30 the State Board not later than 30 days following the end of
31 each semester, quarter, or term in a format prescribed by the
32 State Board. These semester credit hours, or equivalent, shall
33 be certified by each district on forms provided by the State
34 Board. Each district's certified semester credit hours, or

1 equivalent, are subject to audit pursuant to Section 3-22.1.

2 The State Board shall certify, prepare, and submit to the
3 State Comptroller during August, November, February, and May of
4 each fiscal year vouchers setting forth an amount equal to 25%
5 of the grants approved by the State Board for base operating
6 grants and equalization grants. The State Board shall prepare
7 and submit to the State Comptroller vouchers for payments of
8 other grants as appropriated by the General Assembly. If the
9 amount appropriated for grants is different from the amount
10 provided for such grants under this Act, the grants shall be
11 proportionately reduced or increased accordingly.

12 For the purposes of this Section, "resident student" means
13 a student in a community college district who maintains
14 residency in that district or meets other residency definitions
15 established by the State Board, and who was enrolled either in
16 one of the approved instructional program categories in that
17 district, or in another community college district to which the
18 resident's district is paying tuition under Section 6-2 or with
19 which the resident's district has entered into a cooperative
20 agreement in lieu of such tuition.

21 For the purposes of this Section, a "full-time equivalent"
22 student is equal to 30 semester credit hours.

23 The Illinois Community College Board Contracts and Grants
24 Fund is hereby created in the State Treasury. Items of income
25 to this fund shall include any grants, awards, endowments, or
26 like proceeds, and where appropriate, other funds made
27 available through contracts with governmental, public, and
28 private agencies or persons. The General Assembly shall from
29 time to time make appropriations payable from such fund for the
30 support, improvement, and expenses of the State Board and
31 Illinois community college districts.

32 (Source: P.A. 93-21, eff. 7-1-03.)

33 Section 55. The Illinois Horse Racing Act of 1975 is

1 amended by changing Section 26 as follows:

2 (230 ILCS 5/26) (from Ch. 8, par. 37-26)

3 Sec. 26. Wagering.

4 (a) Any licensee may conduct and supervise the pari-mutuel
5 system of wagering, as defined in Section 3.12 of this Act, on
6 horse races conducted by an Illinois organization licensee or
7 conducted at a racetrack located in another state or country
8 and televised in Illinois in accordance with subsection (g) of
9 Section 26 of this Act. Subject to the prior consent of the
10 Board, licensees may supplement any pari-mutuel pool in order
11 to guarantee a minimum distribution. Such pari-mutuel method of
12 wagering shall not, under any circumstances if conducted under
13 the provisions of this Act, be held or construed to be
14 unlawful, other statutes of this State to the contrary
15 notwithstanding. Subject to rules for advance wagering
16 promulgated by the Board, any licensee may accept wagers in
17 advance of the day of the race wagered upon occurs.

18 (b) No other method of betting, pool making, wagering or
19 gambling shall be used or permitted by the licensee. Each
20 licensee may retain, subject to the payment of all applicable
21 taxes and purses, an amount not to exceed 17% of all money
22 wagered under subsection (a) of this Section, except as may
23 otherwise be permitted under this Act.

24 (b-5) An individual may place a wager under the pari-mutuel
25 system from any licensed location authorized under this Act
26 provided that wager is electronically recorded in the manner
27 described in Section 3.12 of this Act. Any wager made
28 electronically by an individual while physically on the
29 premises of a licensee shall be deemed to have been made at the
30 premises of that licensee.

31 (c) Until January 1, 2000, the sum held by any licensee for
32 payment of outstanding pari-mutuel tickets, if unclaimed prior
33 to December 31 of the next year, shall be retained by the

1 licensee for payment of such tickets until that date. Within 10
2 days thereafter, the balance of such sum remaining unclaimed,
3 less any uncashed supplements contributed by such licensee for
4 the purpose of guaranteeing minimum distributions of any
5 pari-mutuel pool, shall be paid to the Illinois Veterans'
6 Rehabilitation Fund of the State treasury, except as provided
7 in subsection (g) of Section 27 of this Act.

8 (c-5) Beginning January 1, 2000, the sum held by any
9 licensee for payment of outstanding pari-mutuel tickets, if
10 unclaimed prior to December 31 of the next year, shall be
11 retained by the licensee for payment of such tickets until that
12 date. Within 10 days thereafter, the balance of such sum
13 remaining unclaimed, less any uncashed supplements contributed
14 by such licensee for the purpose of guaranteeing minimum
15 distributions of any pari-mutuel pool, shall be evenly
16 distributed to the purse account of the organization licensee
17 and the organization licensee.

18 (d) A pari-mutuel ticket shall be honored until December 31
19 of the next calendar year, and the licensee shall pay the same
20 and may charge the amount thereof against unpaid money
21 similarly accumulated on account of pari-mutuel tickets not
22 presented for payment.

23 (e) No licensee shall knowingly permit any minor, other
24 than an employee of such licensee or an owner, trainer, jockey,
25 driver, or employee thereof, to be admitted during a racing
26 program unless accompanied by a parent or guardian, or any
27 minor to be a patron of the pari-mutuel system of wagering
28 conducted or supervised by it. The admission of any
29 unaccompanied minor, other than an employee of the licensee or
30 an owner, trainer, jockey, driver, or employee thereof at a
31 race track is a Class C misdemeanor.

32 (f) Notwithstanding the other provisions of this Act, an
33 organization licensee may contract with an entity in another
34 state or country to permit any legal wagering entity in another

1 state or country to accept wagers solely within such other
2 state or country on races conducted by the organization
3 licensee in this State. Beginning January 1, 2000, these wagers
4 shall not be subject to State taxation. Until January 1, 2000,
5 when the out-of-State entity conducts a pari-mutuel pool
6 separate from the organization licensee, a privilege tax equal
7 to 7 1/2% of all monies received by the organization licensee
8 from entities in other states or countries pursuant to such
9 contracts is imposed on the organization licensee, and such
10 privilege tax shall be remitted to the Department of Revenue
11 within 48 hours of receipt of the moneys from the simulcast.
12 When the out-of-State entity conducts a combined pari-mutuel
13 pool with the organization licensee, the tax shall be 10% of
14 all monies received by the organization licensee with 25% of
15 the receipts from this 10% tax to be distributed to the county
16 in which the race was conducted.

17 An organization licensee may permit one or more of its
18 races to be utilized for pari-mutuel wagering at one or more
19 locations in other states and may transmit audio and visual
20 signals of races the organization licensee conducts to one or
21 more locations outside the State or country and may also permit
22 pari-mutuel pools in other states or countries to be combined
23 with its gross or net wagering pools or with wagering pools
24 established by other states.

25 (g) A host track may accept interstate simulcast wagers on
26 horse races conducted in other states or countries and shall
27 control the number of signals and types of breeds of racing in
28 its simulcast program, subject to the disapproval of the Board.
29 The Board may prohibit a simulcast program only if it finds
30 that the simulcast program is clearly adverse to the integrity
31 of racing. The host track simulcast program shall include the
32 signal of live racing of all organization licensees. All
33 non-host licensees shall carry the host track simulcast program
34 and accept wagers on all races included as part of the

1 simulcast program upon which wagering is permitted. The costs
2 and expenses of the host track and non-host licensees
3 associated with interstate simulcast wagering, other than the
4 interstate commission fee, shall be borne by the host track and
5 all non-host licensees incurring these costs. The interstate
6 commission fee shall not exceed 5% of Illinois handle on the
7 interstate simulcast race or races without prior approval of
8 the Board. The Board shall promulgate rules under which it may
9 permit interstate commission fees in excess of 5%. The
10 interstate commission fee and other fees charged by the sending
11 racetrack, including, but not limited to, satellite decoder
12 fees, shall be uniformly applied to the host track and all
13 non-host licensees.

14 (1) Between the hours of 6:30 a.m. and 6:30 p.m. an
15 intertrack wagering licensee other than the host track may
16 supplement the host track simulcast program with
17 additional simulcast races or race programs, provided that
18 between January 1 and the third Friday in February of any
19 year, inclusive, if no live thoroughbred racing is
20 occurring in Illinois during this period, only
21 thoroughbred races may be used for supplemental interstate
22 simulcast purposes. The Board shall withhold approval for a
23 supplemental interstate simulcast only if it finds that the
24 simulcast is clearly adverse to the integrity of racing. A
25 supplemental interstate simulcast may be transmitted from
26 an intertrack wagering licensee to its affiliated non-host
27 licensees. The interstate commission fee for a
28 supplemental interstate simulcast shall be paid by the
29 non-host licensee and its affiliated non-host licensees
30 receiving the simulcast.

31 (2) Between the hours of 6:30 p.m. and 6:30 a.m. an
32 intertrack wagering licensee other than the host track may
33 receive supplemental interstate simulcasts only with the
34 consent of the host track, except when the Board finds that

1 the simulcast is clearly adverse to the integrity of
2 racing. Consent granted under this paragraph (2) to any
3 intertrack wagering licensee shall be deemed consent to all
4 non-host licensees. The interstate commission fee for the
5 supplemental interstate simulcast shall be paid by all
6 participating non-host licensees.

7 (3) Each licensee conducting interstate simulcast
8 wagering may retain, subject to the payment of all
9 applicable taxes and the purses, an amount not to exceed
10 17% of all money wagered. If any licensee conducts the
11 pari-mutuel system wagering on races conducted at
12 racetracks in another state or country, each such race or
13 race program shall be considered a separate racing day for
14 the purpose of determining the daily handle and computing
15 the privilege tax of that daily handle as provided in
16 subsection (a) of Section 27. Until January 1, 2000, from
17 the sums permitted to be retained pursuant to this
18 subsection, each intertrack wagering location licensee
19 shall pay 1% of the pari-mutuel handle wagered on simulcast
20 wagering to the Horse Racing Tax Allocation Fund, subject
21 to the provisions of subparagraph (B) of paragraph (11) of
22 subsection (h) of Section 26 of this Act.

23 (4) A licensee who receives an interstate simulcast may
24 combine its gross or net pools with pools at the sending
25 racetracks pursuant to rules established by the Board. All
26 licensees combining their gross pools at a sending
27 racetrack shall adopt the take-out percentages of the
28 sending racetrack. A licensee may also establish a separate
29 pool and takeout structure for wagering purposes on races
30 conducted at race tracks outside of the State of Illinois.
31 The licensee may permit pari-mutuel wagers placed in other
32 states or countries to be combined with its gross or net
33 wagering pools or other wagering pools.

34 (5) After the payment of the interstate commission fee

1 (except for the interstate commission fee on a supplemental
2 interstate simulcast, which shall be paid by the host track
3 and by each non-host licensee through the host-track) and
4 all applicable State and local taxes, except as provided in
5 subsection (g) of Section 27 of this Act, the remainder of
6 moneys retained from simulcast wagering pursuant to this
7 subsection (g), and Section 26.2 shall be divided as
8 follows:

9 (A) For interstate simulcast wagers made at a host
10 track, 50% to the host track and 50% to purses at the
11 host track.

12 (B) For wagers placed on interstate simulcast
13 races, supplemental simulcasts as defined in
14 subparagraphs (1) and (2), and separately pooled races
15 conducted outside of the State of Illinois made at a
16 non-host licensee, 25% to the host track, 25% to the
17 non-host licensee, and 50% to the purses at the host
18 track.

19 (6) Notwithstanding any provision in this Act to the
20 contrary, non-host licensees who derive their licenses
21 from a track located in a county with a population in
22 excess of 230,000 and that borders the Mississippi River
23 may receive supplemental interstate simulcast races at all
24 times subject to Board approval, which shall be withheld
25 only upon a finding that a supplemental interstate
26 simulcast is clearly adverse to the integrity of racing.

27 (7) Notwithstanding any provision of this Act to the
28 contrary, after payment of all applicable State and local
29 taxes and interstate commission fees, non-host licensees
30 who derive their licenses from a track located in a county
31 with a population in excess of 230,000 and that borders the
32 Mississippi River shall retain 50% of the retention from
33 interstate simulcast wagers and shall pay 50% to purses at
34 the track from which the non-host licensee derives its

1 license as follows:

2 (A) Between January 1 and the third Friday in
3 February, inclusive, if no live thoroughbred racing is
4 occurring in Illinois during this period, when the
5 interstate simulcast is a standardbred race, the purse
6 share to its standardbred purse account;

7 (B) Between January 1 and the third Friday in
8 February, inclusive, if no live thoroughbred racing is
9 occurring in Illinois during this period, and the
10 interstate simulcast is a thoroughbred race, the purse
11 share to its interstate simulcast purse pool to be
12 distributed under paragraph (10) of this subsection
13 (g);

14 (C) Between January 1 and the third Friday in
15 February, inclusive, if live thoroughbred racing is
16 occurring in Illinois, between 6:30 a.m. and 6:30 p.m.
17 the purse share from wagers made during this time
18 period to its thoroughbred purse account and between
19 6:30 p.m. and 6:30 a.m. the purse share from wagers
20 made during this time period to its standardbred purse
21 accounts;

22 (D) Between the third Saturday in February and
23 December 31, when the interstate simulcast occurs
24 between the hours of 6:30 a.m. and 6:30 p.m., the purse
25 share to its thoroughbred purse account;

26 (E) Between the third Saturday in February and
27 December 31, when the interstate simulcast occurs
28 between the hours of 6:30 p.m. and 6:30 a.m., the purse
29 share to its standardbred purse account.

30 (7.1) Notwithstanding any other provision of this Act
31 to the contrary, if no standardbred racing is conducted at
32 a racetrack located in Madison County during any calendar
33 year beginning on or after January 1, 2002, all moneys
34 derived by that racetrack from simulcast wagering and

1 inter-track wagering that (1) are to be used for purses and
2 (2) are generated between the hours of 6:30 p.m. and 6:30
3 a.m. during that calendar year shall be paid as follows:

4 (A) If the licensee that conducts horse racing at
5 that racetrack requests from the Board at least as many
6 racing dates as were conducted in calendar year 2000,
7 80% shall be paid to its thoroughbred purse account;
8 and

9 (B) Twenty percent shall be deposited into the
10 Illinois Colt Stakes Purse Distribution Fund and shall
11 be paid to purses for standardbred races for Illinois
12 conceived and foaled horses conducted at any county
13 fairgrounds. The moneys deposited into the Fund
14 pursuant to this subparagraph (B) shall be deposited
15 within 2 weeks after the day they were generated, shall
16 be in addition to and not in lieu of any other moneys
17 paid to standardbred purses under this Act, and shall
18 not be commingled with other moneys paid into that
19 Fund. The moneys deposited pursuant to this
20 subparagraph (B) shall be allocated as provided by the
21 Department of Agriculture, with the advice and
22 assistance of the Illinois Standardbred Breeders Fund
23 Advisory Board.

24 (7.2) Notwithstanding any other provision of this Act
25 to the contrary, if no thoroughbred racing is conducted at
26 a racetrack located in Madison County during any calendar
27 year beginning on or after January 1, 2002, all moneys
28 derived by that racetrack from simulcast wagering and
29 inter-track wagering that (1) are to be used for purses and
30 (2) are generated between the hours of 6:30 a.m. and 6:30
31 p.m. during that calendar year shall be deposited as
32 follows:

33 (A) If the licensee that conducts horse racing at
34 that racetrack requests from the Board at least as many

1 racing dates as were conducted in calendar year 2000,
2 80% shall be deposited into its standardbred purse
3 account; and

4 (B) Twenty percent shall be deposited into the
5 Illinois Colt Stakes Purse Distribution Fund. Moneys
6 deposited into the Illinois Colt Stakes Purse
7 Distribution Fund pursuant to this subparagraph (B)
8 shall be paid to Illinois conceived and foaled
9 thoroughbred breeders' programs and to thoroughbred
10 purses for races conducted at any county fairgrounds
11 for Illinois conceived and foaled horses at the
12 discretion of the Department of Agriculture, with the
13 advice and assistance of the Illinois Thoroughbred
14 Breeders Fund Advisory Board. The moneys deposited
15 into the Illinois Colt Stakes Purse Distribution Fund
16 pursuant to this subparagraph (B) shall be deposited
17 within 2 weeks after the day they were generated, shall
18 be in addition to and not in lieu of any other moneys
19 paid to thoroughbred purses under this Act, and shall
20 not be commingled with other moneys deposited into that
21 Fund.

22 (7.3) If no live standardbred racing is conducted at a
23 racetrack located in Madison County in calendar year 2000
24 or 2001, an organization licensee who is licensed to
25 conduct horse racing at that racetrack shall, before
26 January 1, 2002, pay all moneys derived from simulcast
27 wagering and inter-track wagering in calendar years 2000
28 and 2001 and paid into the licensee's standardbred purse
29 account as follows:

30 (A) Eighty percent to that licensee's thoroughbred
31 purse account to be used for thoroughbred purses; and

32 (B) Twenty percent to the Illinois Colt Stakes
33 Purse Distribution Fund.

34 Failure to make the payment to the Illinois Colt Stakes

1 Purse Distribution Fund before January 1, 2002 shall result
2 in the immediate revocation of the licensee's organization
3 license, inter-track wagering license, and inter-track
4 wagering location license.

5 Moneys paid into the Illinois Colt Stakes Purse
6 Distribution Fund pursuant to this paragraph (7.3) shall be
7 paid to purses for standardbred races for Illinois
8 conceived and foaled horses conducted at any county
9 fairgrounds. Moneys paid into the Illinois Colt Stakes
10 Purse Distribution Fund pursuant to this paragraph (7.3)
11 shall be used as determined by the Department of
12 Agriculture, with the advice and assistance of the Illinois
13 Standardbred Breeders Fund Advisory Board, shall be in
14 addition to and not in lieu of any other moneys paid to
15 standardbred purses under this Act, and shall not be
16 commingled with any other moneys paid into that Fund.

17 (7.4) If live standardbred racing is conducted at a
18 racetrack located in Madison County at any time in calendar
19 year 2001 before the payment required under paragraph (7.3)
20 has been made, the organization licensee who is licensed to
21 conduct racing at that racetrack shall pay all moneys
22 derived by that racetrack from simulcast wagering and
23 inter-track wagering during calendar years 2000 and 2001
24 that (1) are to be used for purses and (2) are generated
25 between the hours of 6:30 p.m. and 6:30 a.m. during 2000 or
26 2001 to the standardbred purse account at that racetrack to
27 be used for standardbred purses.

28 (8) Notwithstanding any provision in this Act to the
29 contrary, an organization licensee from a track located in
30 a county with a population in excess of 230,000 and that
31 borders the Mississippi River and its affiliated non-host
32 licensees shall not be entitled to share in any retention
33 generated on racing, inter-track wagering, or simulcast
34 wagering at any other Illinois wagering facility.

1 (8.1) Notwithstanding any provisions in this Act to the
2 contrary, if 2 organization licensees are conducting
3 standardbred race meetings concurrently between the hours
4 of 6:30 p.m. and 6:30 a.m., after payment of all applicable
5 State and local taxes and interstate commission fees, the
6 remainder of the amount retained from simulcast wagering
7 otherwise attributable to the host track and to host track
8 purses shall be split daily between the 2 organization
9 licensees and the purses at the tracks of the 2
10 organization licensees, respectively, based on each
11 organization licensee's share of the total live handle for
12 that day, provided that this provision shall not apply to
13 any non-host licensee that derives its license from a track
14 located in a county with a population in excess of 230,000
15 and that borders the Mississippi River.

16 (9) (Blank).

17 (10) (Blank).

18 (11) (Blank).

19 (12) The Board shall have authority to compel all host
20 tracks to receive the simulcast of any or all races
21 conducted at the Springfield or DuQuoin State fairgrounds
22 and include all such races as part of their simulcast
23 programs.

24 (13) (Blank). ~~Notwithstanding any other provision of~~
25 ~~this Act, in the event that the total Illinois pari mutuel~~
26 ~~handle on Illinois horse races at all wagering facilities~~
27 ~~in any calendar year is less than 75% of the total Illinois~~
28 ~~pari mutuel handle on Illinois horse races at all such~~
29 ~~wagering facilities for calendar year 1994, then each~~
30 ~~wagering facility that has an annual total Illinois~~
31 ~~pari mutuel handle on Illinois horse races that is less~~
32 ~~than 75% of the total Illinois pari mutuel handle on~~
33 ~~Illinois horse races at such wagering facility for calendar~~
34 ~~year 1994, shall be permitted to receive, from any amount~~

1 ~~otherwise payable to the purse account at the race track~~
2 ~~with which the wagering facility is affiliated in the~~
3 ~~succeeding calendar year, an amount equal to 2% of the~~
4 ~~differential in total Illinois pari mutuel handle on~~
5 ~~Illinois horse races at the wagering facility between that~~
6 ~~calendar year in question and 1994 provided, however, that~~
7 ~~a wagering facility shall not be entitled to any such~~
8 ~~payment until the Board certifies in writing to the~~
9 ~~wagering facility the amount to which the wagering facility~~
10 ~~is entitled and a schedule for payment of the amount to the~~
11 ~~wagering facility, based on: (i) the racing dates awarded~~
12 ~~to the race track affiliated with the wagering facility~~
13 ~~during the succeeding year; (ii) the sums available or~~
14 ~~anticipated to be available in the purse account of the~~
15 ~~race track affiliated with the wagering facility for purses~~
16 ~~during the succeeding year; and (iii) the need to ensure~~
17 ~~reasonable purse levels during the payment period. The~~
18 ~~Board's certification shall be provided no later than~~
19 ~~January 31 of the succeeding year. In the event a wagering~~
20 ~~facility entitled to a payment under this paragraph (13) is~~
21 ~~affiliated with a race track that maintains purse accounts~~
22 ~~for both standardbred and thoroughbred racing, the amount~~
23 ~~to be paid to the wagering facility shall be divided~~
24 ~~between each purse account pro rata, based on the amount of~~
25 ~~Illinois handle on Illinois standardbred and thoroughbred~~
26 ~~racing respectively at the wagering facility during the~~
27 ~~previous calendar year. Annually, the General Assembly~~
28 ~~shall appropriate sufficient funds from the General~~
29 ~~Revenue Fund to the Department of Agriculture for payment~~
30 ~~into the thoroughbred and standardbred horse racing purse~~
31 ~~accounts at Illinois pari mutuel tracks. The amount paid to~~
32 ~~each purse account shall be the amount certified by the~~
33 ~~Illinois Racing Board in January to be transferred from~~
34 ~~each account to each eligible racing facility in accordance~~

1 ~~with the provisions of this Section.~~

2 (h) The Board may approve and license the conduct of
3 inter-track wagering and simulcast wagering by inter-track
4 wagering licensees and inter-track wagering location licensees
5 subject to the following terms and conditions:

6 (1) Any person licensed to conduct a race meeting (i)
7 at a track where 60 or more days of racing were conducted
8 during the immediately preceding calendar year or where
9 over the 5 immediately preceding calendar years an average
10 of 30 or more days of racing were conducted annually may be
11 issued an inter-track wagering license; (ii) at a track
12 located in a county that is bounded by the Mississippi
13 River, which has a population of less than 150,000
14 according to the 1990 decennial census, and an average of
15 at least 60 days of racing per year between 1985 and 1993
16 may be issued an inter-track wagering license; or (iii) at
17 a track located in Madison County that conducted at least
18 100 days of live racing during the immediately preceding
19 calendar year may be issued an inter-track wagering
20 license, unless a lesser schedule of live racing is the
21 result of (A) weather, unsafe track conditions, or other
22 acts of God; (B) an agreement between the organization
23 licensee and the associations representing the largest
24 number of owners, trainers, jockeys, or standardbred
25 drivers who race horses at that organization licensee's
26 racing meeting; or (C) a finding by the Board of
27 extraordinary circumstances and that it was in the best
28 interest of the public and the sport to conduct fewer than
29 100 days of live racing. Any such person having operating
30 control of the racing facility may also receive up to 6
31 inter-track wagering location licenses. In no event shall
32 more than 6 inter-track wagering locations be established
33 for each eligible race track, except that an eligible race
34 track located in a county that has a population of more

1 than 230,000 and that is bounded by the Mississippi River
2 may establish up to 7 inter-track wagering locations. An
3 application for said license shall be filed with the Board
4 prior to such dates as may be fixed by the Board. With an
5 application for an inter-track wagering location license
6 there shall be delivered to the Board a certified check or
7 bank draft payable to the order of the Board for an amount
8 equal to \$500. The application shall be on forms prescribed
9 and furnished by the Board. The application shall comply
10 with all other rules, regulations and conditions imposed by
11 the Board in connection therewith.

12 (2) The Board shall examine the applications with
13 respect to their conformity with this Act and the rules and
14 regulations imposed by the Board. If found to be in
15 compliance with the Act and rules and regulations of the
16 Board, the Board may then issue a license to conduct
17 inter-track wagering and simulcast wagering to such
18 applicant. All such applications shall be acted upon by the
19 Board at a meeting to be held on such date as may be fixed
20 by the Board.

21 (3) In granting licenses to conduct inter-track
22 wagering and simulcast wagering, the Board shall give due
23 consideration to the best interests of the public, of horse
24 racing, and of maximizing revenue to the State.

25 (4) Prior to the issuance of a license to conduct
26 inter-track wagering and simulcast wagering, the applicant
27 shall file with the Board a bond payable to the State of
28 Illinois in the sum of \$50,000, executed by the applicant
29 and a surety company or companies authorized to do business
30 in this State, and conditioned upon (i) the payment by the
31 licensee of all taxes due under Section 27 or 27.1 and any
32 other monies due and payable under this Act, and (ii)
33 distribution by the licensee, upon presentation of the
34 winning ticket or tickets, of all sums payable to the

1 patrons of pari-mutuel pools.

2 (5) Each license to conduct inter-track wagering and
3 simulcast wagering shall specify the person to whom it is
4 issued, the dates on which such wagering is permitted, and
5 the track or location where the wagering is to be
6 conducted.

7 (6) All wagering under such license is subject to this
8 Act and to the rules and regulations from time to time
9 prescribed by the Board, and every such license issued by
10 the Board shall contain a recital to that effect.

11 (7) An inter-track wagering licensee or inter-track
12 wagering location licensee may accept wagers at the track
13 or location where it is licensed, or as otherwise provided
14 under this Act.

15 (8) Inter-track wagering or simulcast wagering shall
16 not be conducted at any track less than 5 miles from a
17 track at which a racing meeting is in progress.

18 (8.1) Inter-track wagering location licensees who
19 derive their licenses from a particular organization
20 licensee shall conduct inter-track wagering and simulcast
21 wagering only at locations which are either within 90 miles
22 of that race track where the particular organization
23 licensee is licensed to conduct racing, or within 135 miles
24 of that race track where the particular organization
25 licensee is licensed to conduct racing in the case of race
26 tracks in counties of less than 400,000 that were operating
27 on or before June 1, 1986. However, inter-track wagering
28 and simulcast wagering shall not be conducted by those
29 licensees at any location within 5 miles of any race track
30 at which a horse race meeting has been licensed in the
31 current year, unless the person having operating control of
32 such race track has given its written consent to such
33 inter-track wagering location licensees, which consent
34 must be filed with the Board at or prior to the time

1 application is made.

2 (8.2) Inter-track wagering or simulcast wagering shall
3 not be conducted by an inter-track wagering location
4 licensee at any location within 500 feet of an existing
5 church or existing school, nor within 500 feet of the
6 residences of more than 50 registered voters without
7 receiving written permission from a majority of the
8 registered voters at such residences. Such written
9 permission statements shall be filed with the Board. The
10 distance of 500 feet shall be measured to the nearest part
11 of any building used for worship services, education
12 programs, residential purposes, or conducting inter-track
13 wagering by an inter-track wagering location licensee, and
14 not to property boundaries. However, inter-track wagering
15 or simulcast wagering may be conducted at a site within 500
16 feet of a church, school or residences of 50 or more
17 registered voters if such church, school or residences have
18 been erected or established, or such voters have been
19 registered, after the Board issues the original
20 inter-track wagering location license at the site in
21 question. Inter-track wagering location licensees may
22 conduct inter-track wagering and simulcast wagering only
23 in areas that are zoned for commercial or manufacturing
24 purposes or in areas for which a special use has been
25 approved by the local zoning authority. However, no license
26 to conduct inter-track wagering and simulcast wagering
27 shall be granted by the Board with respect to any
28 inter-track wagering location within the jurisdiction of
29 any local zoning authority which has, by ordinance or by
30 resolution, prohibited the establishment of an inter-track
31 wagering location within its jurisdiction. However,
32 inter-track wagering and simulcast wagering may be
33 conducted at a site if such ordinance or resolution is
34 enacted after the Board licenses the original inter-track

1 wagering location licensee for the site in question.

2 (9) (Blank).

3 (10) An inter-track wagering licensee or an
4 inter-track wagering location licensee may retain, subject
5 to the payment of the privilege taxes and the purses, an
6 amount not to exceed 17% of all money wagered. Each program
7 of racing conducted by each inter-track wagering licensee
8 or inter-track wagering location licensee shall be
9 considered a separate racing day for the purpose of
10 determining the daily handle and computing the privilege
11 tax or pari-mutuel tax on such daily handle as provided in
12 Section 27.

13 (10.1) Except as provided in subsection (g) of Section
14 27 of this Act, inter-track wagering location licensees
15 shall pay 1% of the pari-mutuel handle at each location to
16 the municipality in which such location is situated and 1%
17 of the pari-mutuel handle at each location to the county in
18 which such location is situated. In the event that an
19 inter-track wagering location licensee is situated in an
20 unincorporated area of a county, such licensee shall pay 2%
21 of the pari-mutuel handle from such location to such
22 county.

23 (10.2) Notwithstanding any other provision of this
24 Act, with respect to intertrack wagering at a race track
25 located in a county that has a population of more than
26 230,000 and that is bounded by the Mississippi River ("the
27 first race track"), or at a facility operated by an
28 inter-track wagering licensee or inter-track wagering
29 location licensee that derives its license from the
30 organization licensee that operates the first race track,
31 on races conducted at the first race track or on races
32 conducted at another Illinois race track and
33 simultaneously televised to the first race track or to a
34 facility operated by an inter-track wagering licensee or

1 inter-track wagering location licensee that derives its
2 license from the organization licensee that operates the
3 first race track, those moneys shall be allocated as
4 follows:

5 (A) That portion of all moneys wagered on
6 standardbred racing that is required under this Act to
7 be paid to purses shall be paid to purses for
8 standardbred races.

9 (B) That portion of all moneys wagered on
10 thoroughbred racing that is required under this Act to
11 be paid to purses shall be paid to purses for
12 thoroughbred races.

13 (11) (A) After payment of the privilege or pari-mutuel
14 tax, any other applicable taxes, and the costs and expenses
15 in connection with the gathering, transmission, and
16 dissemination of all data necessary to the conduct of
17 inter-track wagering, the remainder of the monies retained
18 under either Section 26 or Section 26.2 of this Act by the
19 inter-track wagering licensee on inter-track wagering
20 shall be allocated with 50% to be split between the 2
21 participating licensees and 50% to purses, except that an
22 intertrack wagering licensee that derives its license from
23 a track located in a county with a population in excess of
24 230,000 and that borders the Mississippi River shall not
25 divide any remaining retention with the Illinois
26 organization licensee that provides the race or races, and
27 an intertrack wagering licensee that accepts wagers on
28 races conducted by an organization licensee that conducts a
29 race meet in a county with a population in excess of
30 230,000 and that borders the Mississippi River shall not
31 divide any remaining retention with that organization
32 licensee.

33 (B) From the sums permitted to be retained pursuant to
34 this Act each inter-track wagering location licensee shall

1 pay (i) the privilege or pari-mutuel tax to the State; (ii)
2 4.75% of the pari-mutuel handle on intertrack wagering at
3 such location on races as purses, except that an intertrack
4 wagering location licensee that derives its license from a
5 track located in a county with a population in excess of
6 230,000 and that borders the Mississippi River shall retain
7 all purse moneys for its own purse account consistent with
8 distribution set forth in this subsection (h), and
9 intertrack wagering location licensees that accept wagers
10 on races conducted by an organization licensee located in a
11 county with a population in excess of 230,000 and that
12 borders the Mississippi River shall distribute all purse
13 moneys to purses at the operating host track; (iii) until
14 January 1, 2000, except as provided in subsection (g) of
15 Section 27 of this Act, 1% of the pari-mutuel handle
16 wagered on inter-track wagering and simulcast wagering at
17 each inter-track wagering location licensee facility to
18 the Horse Racing Tax Allocation Fund, provided that, to the
19 extent the total amount collected and distributed to the
20 Horse Racing Tax Allocation Fund under this subsection (h)
21 during any calendar year exceeds the amount collected and
22 distributed to the Horse Racing Tax Allocation Fund during
23 calendar year 1994, that excess amount shall be
24 redistributed (I) to all inter-track wagering location
25 licensees, based on each licensee's pro-rata share of the
26 total handle from inter-track wagering and simulcast
27 wagering for all inter-track wagering location licensees
28 during the calendar year in which this provision is
29 applicable; then (II) the amounts redistributed to each
30 inter-track wagering location licensee as described in
31 subpart (I) shall be further redistributed as provided in
32 subparagraph (B) of paragraph (5) of subsection (g) of this
33 Section 26 provided first, that the shares of those
34 amounts, which are to be redistributed to the host track or

1 to purses at the host track under subparagraph (B) of
2 paragraph (5) of subsection (g) of this Section 26 shall be
3 redistributed based on each host track's pro rata share of
4 the total inter-track wagering and simulcast wagering
5 handle at all host tracks during the calendar year in
6 question, and second, that any amounts redistributed as
7 described in part (I) to an inter-track wagering location
8 licensee that accepts wagers on races conducted by an
9 organization licensee that conducts a race meet in a county
10 with a population in excess of 230,000 and that borders the
11 Mississippi River shall be further redistributed as
12 provided in subparagraphs (D) and (E) of paragraph (7) of
13 subsection (g) of this Section 26, with the portion of that
14 further redistribution allocated to purses at that
15 organization licensee to be divided between standardbred
16 purses and thoroughbred purses based on the amounts
17 otherwise allocated to purses at that organization
18 licensee during the calendar year in question; and (iv) 8%
19 of the pari-mutuel handle on inter-track wagering wagered
20 at such location to satisfy all costs and expenses of
21 conducting its wagering. The remainder of the monies
22 retained by the inter-track wagering location licensee
23 shall be allocated 40% to the location licensee and 60% to
24 the organization licensee which provides the Illinois
25 races to the location, except that an intertrack wagering
26 location licensee that derives its license from a track
27 located in a county with a population in excess of 230,000
28 and that borders the Mississippi River shall not divide any
29 remaining retention with the organization licensee that
30 provides the race or races and an intertrack wagering
31 location licensee that accepts wagers on races conducted by
32 an organization licensee that conducts a race meet in a
33 county with a population in excess of 230,000 and that
34 borders the Mississippi River shall not divide any

1 remaining retention with the organization licensee.
2 Notwithstanding the provisions of clauses (ii) and (iv) of
3 this paragraph, in the case of the additional inter-track
4 wagering location licenses authorized under paragraph (1)
5 of this subsection (h) by this amendatory Act of 1991,
6 those licensees shall pay the following amounts as purses:
7 during the first 12 months the licensee is in operation,
8 5.25% of the pari-mutuel handle wagered at the location on
9 races; during the second 12 months, 5.25%; during the third
10 12 months, 5.75%; during the fourth 12 months, 6.25%; and
11 during the fifth 12 months and thereafter, 6.75%. The
12 following amounts shall be retained by the licensee to
13 satisfy all costs and expenses of conducting its wagering:
14 during the first 12 months the licensee is in operation,
15 8.25% of the pari-mutuel handle wagered at the location;
16 during the second 12 months, 8.25%; during the third 12
17 months, 7.75%; during the fourth 12 months, 7.25%; and
18 during the fifth 12 months and thereafter, 6.75%. For
19 additional intertrack wagering location licensees
20 authorized under this amendatory Act of 1995, purses for
21 the first 12 months the licensee is in operation shall be
22 5.75% of the pari-mutuel wagered at the location, purses
23 for the second 12 months the licensee is in operation shall
24 be 6.25%, and purses thereafter shall be 6.75%. For
25 additional intertrack location licensees authorized under
26 this amendatory Act of 1995, the licensee shall be allowed
27 to retain to satisfy all costs and expenses: 7.75% of the
28 pari-mutuel handle wagered at the location during its first
29 12 months of operation, 7.25% during its second 12 months
30 of operation, and 6.75% thereafter.

31 (C) There is hereby created the Horse Racing Tax
32 Allocation Fund which shall remain in existence until
33 December 31, 1999. Moneys remaining in the Fund after
34 December 31, 1999 shall be paid into the General Revenue

1 Fund. Until January 1, 2000, all monies paid into the Horse
2 Racing Tax Allocation Fund pursuant to this paragraph (11)
3 by inter-track wagering location licensees located in park
4 districts of 500,000 population or less, or in a
5 municipality that is not included within any park district
6 but is included within a conservation district and is the
7 county seat of a county that (i) is contiguous to the state
8 of Indiana and (ii) has a 1990 population of 88,257
9 according to the United States Bureau of the Census, and
10 operating on May 1, 1994 shall be allocated by
11 appropriation as follows:

12 Two-sevenths to the Department of Agriculture.
13 Fifty percent of this two-sevenths shall be used to
14 promote the Illinois horse racing and breeding
15 industry, and shall be distributed by the Department of
16 Agriculture upon the advice of a 9-member committee
17 appointed by the Governor consisting of the following
18 members: the Director of Agriculture, who shall serve
19 as chairman; 2 representatives of organization
20 licensees conducting thoroughbred race meetings in
21 this State, recommended by those licensees; 2
22 representatives of organization licensees conducting
23 standardbred race meetings in this State, recommended
24 by those licensees; a representative of the Illinois
25 Thoroughbred Breeders and Owners Foundation,
26 recommended by that Foundation; a representative of
27 the Illinois Standardbred Owners and Breeders
28 Association, recommended by that Association; a
29 representative of the Horsemen's Benevolent and
30 Protective Association or any successor organization
31 thereto established in Illinois comprised of the
32 largest number of owners and trainers, recommended by
33 that Association or that successor organization; and a
34 representative of the Illinois Harness Horsemen's

1 Association, recommended by that Association.
2 Committee members shall serve for terms of 2 years,
3 commencing January 1 of each even-numbered year. If a
4 representative of any of the above-named entities has
5 not been recommended by January 1 of any even-numbered
6 year, the Governor shall appoint a committee member to
7 fill that position. Committee members shall receive no
8 compensation for their services as members but shall be
9 reimbursed for all actual and necessary expenses and
10 disbursements incurred in the performance of their
11 official duties. The remaining 50% of this
12 two-sevenths shall be distributed to county fairs for
13 premiums and rehabilitation as set forth in the
14 Agricultural Fair Act;

15 Four-sevenths to park districts or municipalities
16 that do not have a park district of 500,000 population
17 or less for museum purposes (if an inter-track wagering
18 location licensee is located in such a park district)
19 or to conservation districts for museum purposes (if an
20 inter-track wagering location licensee is located in a
21 municipality that is not included within any park
22 district but is included within a conservation
23 district and is the county seat of a county that (i) is
24 contiguous to the state of Indiana and (ii) has a 1990
25 population of 88,257 according to the United States
26 Bureau of the Census, except that if the conservation
27 district does not maintain a museum, the monies shall
28 be allocated equally between the county and the
29 municipality in which the inter-track wagering
30 location licensee is located for general purposes) or
31 to a municipal recreation board for park purposes (if
32 an inter-track wagering location licensee is located
33 in a municipality that is not included within any park
34 district and park maintenance is the function of the

1 municipal recreation board and the municipality has a
2 1990 population of 9,302 according to the United States
3 Bureau of the Census); provided that the monies are
4 distributed to each park district or conservation
5 district or municipality that does not have a park
6 district in an amount equal to four-sevenths of the
7 amount collected by each inter-track wagering location
8 licensee within the park district or conservation
9 district or municipality for the Fund. Monies that were
10 paid into the Horse Racing Tax Allocation Fund before
11 the effective date of this amendatory Act of 1991 by an
12 inter-track wagering location licensee located in a
13 municipality that is not included within any park
14 district but is included within a conservation
15 district as provided in this paragraph shall, as soon
16 as practicable after the effective date of this
17 amendatory Act of 1991, be allocated and paid to that
18 conservation district as provided in this paragraph.
19 Any park district or municipality not maintaining a
20 museum may deposit the monies in the corporate fund of
21 the park district or municipality where the
22 inter-track wagering location is located, to be used
23 for general purposes; and

24 One-seventh to the Agricultural Premium Fund to be
25 used for distribution to agricultural home economics
26 extension councils in accordance with "An Act in
27 relation to additional support and finances for the
28 Agricultural and Home Economic Extension Councils in
29 the several counties of this State and making an
30 appropriation therefor", approved July 24, 1967.

31 Until January 1, 2000, all other monies paid into the
32 Horse Racing Tax Allocation Fund pursuant to this paragraph
33 (11) shall be allocated by appropriation as follows:

34 Two-sevenths to the Department of Agriculture.

1 Fifty percent of this two-sevenths shall be used to
2 promote the Illinois horse racing and breeding
3 industry, and shall be distributed by the Department of
4 Agriculture upon the advice of a 9-member committee
5 appointed by the Governor consisting of the following
6 members: the Director of Agriculture, who shall serve
7 as chairman; 2 representatives of organization
8 licensees conducting thoroughbred race meetings in
9 this State, recommended by those licensees; 2
10 representatives of organization licensees conducting
11 standardbred race meetings in this State, recommended
12 by those licensees; a representative of the Illinois
13 Thoroughbred Breeders and Owners Foundation,
14 recommended by that Foundation; a representative of
15 the Illinois Standardbred Owners and Breeders
16 Association, recommended by that Association; a
17 representative of the Horsemen's Benevolent and
18 Protective Association or any successor organization
19 thereto established in Illinois comprised of the
20 largest number of owners and trainers, recommended by
21 that Association or that successor organization; and a
22 representative of the Illinois Harness Horsemen's
23 Association, recommended by that Association.
24 Committee members shall serve for terms of 2 years,
25 commencing January 1 of each even-numbered year. If a
26 representative of any of the above-named entities has
27 not been recommended by January 1 of any even-numbered
28 year, the Governor shall appoint a committee member to
29 fill that position. Committee members shall receive no
30 compensation for their services as members but shall be
31 reimbursed for all actual and necessary expenses and
32 disbursements incurred in the performance of their
33 official duties. The remaining 50% of this
34 two-sevenths shall be distributed to county fairs for

1 premiums and rehabilitation as set forth in the
2 Agricultural Fair Act;

3 Four-sevenths to museums and aquariums located in
4 park districts of over 500,000 population; provided
5 that the monies are distributed in accordance with the
6 previous year's distribution of the maintenance tax
7 for such museums and aquariums as provided in Section 2
8 of the Park District Aquarium and Museum Act; and

9 One-seventh to the Agricultural Premium Fund to be
10 used for distribution to agricultural home economics
11 extension councils in accordance with "An Act in
12 relation to additional support and finances for the
13 Agricultural and Home Economic Extension Councils in
14 the several counties of this State and making an
15 appropriation therefor", approved July 24, 1967. This
16 subparagraph (C) shall be inoperative and of no force
17 and effect on and after January 1, 2000.

18 (D) Except as provided in paragraph (11) of this
19 subsection (h), with respect to purse allocation from
20 intertrack wagering, the monies so retained shall be
21 divided as follows:

22 (i) If the inter-track wagering licensee,
23 except an intertrack wagering licensee that
24 derives its license from an organization licensee
25 located in a county with a population in excess of
26 230,000 and bounded by the Mississippi River, is
27 not conducting its own race meeting during the same
28 dates, then the entire purse allocation shall be to
29 purses at the track where the races wagered on are
30 being conducted.

31 (ii) If the inter-track wagering licensee,
32 except an intertrack wagering licensee that
33 derives its license from an organization licensee
34 located in a county with a population in excess of

1 230,000 and bounded by the Mississippi River, is
2 also conducting its own race meeting during the
3 same dates, then the purse allocation shall be as
4 follows: 50% to purses at the track where the races
5 wagered on are being conducted; 50% to purses at
6 the track where the inter-track wagering licensee
7 is accepting such wagers.

8 (iii) If the inter-track wagering is being
9 conducted by an inter-track wagering location
10 licensee, except an intertrack wagering location
11 licensee that derives its license from an
12 organization licensee located in a county with a
13 population in excess of 230,000 and bounded by the
14 Mississippi River, the entire purse allocation for
15 Illinois races shall be to purses at the track
16 where the race meeting being wagered on is being
17 held.

18 (12) The Board shall have all powers necessary and
19 proper to fully supervise and control the conduct of
20 inter-track wagering and simulcast wagering by inter-track
21 wagering licensees and inter-track wagering location
22 licensees, including, but not limited to the following:

23 (A) The Board is vested with power to promulgate
24 reasonable rules and regulations for the purpose of
25 administering the conduct of this wagering and to
26 prescribe reasonable rules, regulations and conditions
27 under which such wagering shall be held and conducted.
28 Such rules and regulations are to provide for the
29 prevention of practices detrimental to the public
30 interest and for the best interests of said wagering
31 and to impose penalties for violations thereof.

32 (B) The Board, and any person or persons to whom it
33 delegates this power, is vested with the power to enter
34 the facilities of any licensee to determine whether

1 there has been compliance with the provisions of this
2 Act and the rules and regulations relating to the
3 conduct of such wagering.

4 (C) The Board, and any person or persons to whom it
5 delegates this power, may eject or exclude from any
6 licensee's facilities, any person whose conduct or
7 reputation is such that his presence on such premises
8 may, in the opinion of the Board, call into the
9 question the honesty and integrity of, or interfere
10 with the orderly conduct of such wagering; provided,
11 however, that no person shall be excluded or ejected
12 from such premises solely on the grounds of race,
13 color, creed, national origin, ancestry, or sex.

14 (D) (Blank).

15 (E) The Board is vested with the power to appoint
16 delegates to execute any of the powers granted to it
17 under this Section for the purpose of administering
18 this wagering and any rules and regulations
19 promulgated in accordance with this Act.

20 (F) The Board shall name and appoint a State
21 director of this wagering who shall be a representative
22 of the Board and whose duty it shall be to supervise
23 the conduct of inter-track wagering as may be provided
24 for by the rules and regulations of the Board; such
25 rules and regulation shall specify the method of
26 appointment and the Director's powers, authority and
27 duties.

28 (G) The Board is vested with the power to impose
29 civil penalties of up to \$5,000 against individuals and
30 up to \$10,000 against licensees for each violation of
31 any provision of this Act relating to the conduct of
32 this wagering, any rules adopted by the Board, any
33 order of the Board or any other action which in the
34 Board's discretion, is a detriment or impediment to

1 such wagering.

2 (13) The Department of Agriculture may enter into
3 agreements with licensees authorizing such licensees to
4 conduct inter-track wagering on races to be held at the
5 licensed race meetings conducted by the Department of
6 Agriculture. Such agreement shall specify the races of the
7 Department of Agriculture's licensed race meeting upon
8 which the licensees will conduct wagering. In the event
9 that a licensee conducts inter-track pari-mutuel wagering
10 on races from the Illinois State Fair or DuQuoin State Fair
11 which are in addition to the licensee's previously approved
12 racing program, those races shall be considered a separate
13 racing day for the purpose of determining the daily handle
14 and computing the privilege or pari-mutuel tax on that
15 daily handle as provided in Sections 27 and 27.1. Such
16 agreements shall be approved by the Board before such
17 wagering may be conducted. In determining whether to grant
18 approval, the Board shall give due consideration to the
19 best interests of the public and of horse racing. The
20 provisions of paragraphs (1), (8), (8.1), and (8.2) of
21 subsection (h) of this Section which are not specified in
22 this paragraph (13) shall not apply to licensed race
23 meetings conducted by the Department of Agriculture at the
24 Illinois State Fair in Sangamon County or the DuQuoin State
25 Fair in Perry County, or to any wagering conducted on those
26 race meetings.

27 (i) Notwithstanding the other provisions of this Act, the
28 conduct of wagering at wagering facilities is authorized on all
29 days, except as limited by subsection (b) of Section 19 of this
30 Act.

31 (Source: P.A. 91-40, eff. 6-25-99; 92-211, eff. 8-2-01.)".